

## Selected docket entries for case 17-1022

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Filed	Document Description	Page	Docket Text
01/09/2017	<u>1</u>		Writ of Mandamus filed. Notice filed by Petitioner Stacey R. Smith. (CB)
	<u>1</u> Case Opening Letter	2	
	<u>1</u> writ of mandamus filed	3	
01/10/2017			The case manager for this case is: Cheryl Borkowski (CB)
01/17/2017	<u>5</u> miscellaneous document	83	FILED: "Objection" by Stacey R. Smith. Certificate of Service: 01/11/2017. (CB)
01/19/2017	<u>3</u> (pub) miscellaneous correspondence	93	CORRESPONDENCE: Copy of financial aff. and assorted infor sent to dist. ct. by Stacey R. Smith. (CB)
01/19/2017	<u>4</u> Letter	117	LETTER SENT to Stacey R. Smith advising that he must fill out and return the ifp motion and affidavit that was sent by this Court or case will be dismissed. (CB)
01/25/2017			RECORD RECEIVED from Stacey R. Smith. Atty/Pty – CD/DVD, Sealed: n, Comment: 1 CD (MH)
01/30/2017	<u>7</u> petitioner motion filed	118	Petitioner MOTION filed by Stacey R. Smith to proceed in forma pauperis. Certificate of Service:01/25/2017. (CB)
01/30/2017	<u>8</u> (RESTRICTED) Document(s) not accessible		Financial Affidavit filed by Party Stacey R. Smith Certificate of Service: 01/25/2017. (CB)
01/30/2017	<u>9</u> petitioner motion filed	120	Petitioner MOTION filed by Stacey R. Smith for exparte request for judicial review. Certificate of Service:01/25/2017. (CB)
03/02/2017	<u>10</u> petitioner motion filed	185	Petitioner MOTION filed by Stacey R. Smith to modify sentencing and for affirmation for superintending control. (CB)
03/10/2017	<u>11</u> supplemental pleading filed	258	Supplemental pleading filed by Party Stacey R. Smith. Document: Affirmation for superintending control. (CB)
03/10/2017	<u>12</u> petitioner motion filed	265	Petitioner MOTION filed by Stacey R. Smith to supress police statement. Certificate of Service:03/06/2017. (CB)
03/10/2017	<u>13</u> supplemental pleading filed	272	Supplemental pleading filed by Party Stacey R. Smith. Document: Document to State of Mi Court of Appeals. (CB)
03/10/2017	<u>14</u> supplemental pleading filed	275	Supplemental pleading filed by Party Stacey R. Smith. Document: Supplemental brief in support. (CB)
03/10/2017	<u>15</u> petitioner motion filed	280	Petitioner MOTION filed by Stacey R. Smith for clarity and authorization to utilize computer facilities at Michworks on Franklin ST. to seek employment and affirmation and defense. Certificate of Service:03/07/2017. (CB)

**UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT**

Deborah S. Hunt  
Clerk

100 EAST FIFTH STREET, ROOM 540  
POTTER STEWART U.S. COURTHOUSE  
CINCINNATI, OHIO 45202-3988

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Filed: January 10, 2017

Stacey R. Smith  
855 Kalamazoo Avenue, S.E.  
Grand Rapids, MI 49507

Re: Case No. 17-1022, *In re: Stacey Smith*  
Originating Case No. : 1:16-cv-01381

Dear Sir,

The petition for writ of mandamus or prohibition has been docketed as case number **17-1022** with the caption listed above. If you have not already done so, you must mail a copy of the petition to the lower court judge and counsel for all the other parties.

The filing fee for the petition is \$500, which is payable to the Clerk, Sixth Circuit Court of Appeals. If you wish to seek a waiver of the filing fee, a motion for pauper status with a completed financial affidavit is due by **February 9, 2017**. The financial affidavit is available at [www.ca6.uscourts.gov](http://www.ca6.uscourts.gov) (one has been enclosed for your convenience also).

The district court judge to whom this petition refers has been served with this letter.

Sincerely yours,

s/Cheryl Borkowski  
Case Manager  
Direct Dial No. 513-564-7035

cc: Mr. Thomas Dorwin

IN THE UNITED STATES OF AMERICA.  
U.S. DISTRICT COURT.  
WESTERN DISTRICT OF THE STATE OF MICHIGAN.  
IN THE COUNTY OF KENT.

RECEIVED

JAN - 9 2017

CASE NO.: 1411012-FH  
BEFORE THE HONORABLE: JUDGE BUTH.  
MCL 750.520E  
AT A SESSION IN THE 17<sup>TH</sup> JUDICIAL CIRCUIT COURT

DEBORAH S. HUNT, Clerk

MICHIGAN COURT OF APPEALS.

State of Michigan Building  
350 Ottawa, NW  
Grand Rapids, MI 49503-2349  
(616) 456-1167

UNITED STATES SIXTH CIRCUIT COURT OF APPEALS.

Potter Stewart U.S. Courthouse  
100 East Fifth Street  
Cincinnati, Ohio 45202  
Phone: (513) 564-7000

MR. STACEY R. SMITH  
PLAINTIFF (PETITIONER).  
PRO SE INFORMA PAUPERIS.

Rebuttal and request for pardon.  
The Honorable: Governor Rick Snyder.

VS.

} **BRIEF FOR WRIT OF MANDAMUS EXTRAORDINARE  
WITH EXHIBITIONS. EXPARTE REQUEST FOR  
JUDICIAL REVIEW.**

Motion to Intervene in Challenge to Constitutionality of Law.

FED R. APP P.44

Detective Swiercz of the Wyoming Police Department.  
28 § U.S.C. 2403.

THE HONORABLE GEORGE S. BUTH P-11479.  
DEFENDANT. (RESPONDENT).

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RECEIVED

JAN - 9 2017

IN THE UNITED STATES OF AMERICA.  
U.S. DISTRICT COURT.  
WESTERN DISTRICT OF THE STATE OF MICHIGAN.  
IN THE COUNTY OF KENT.

DEBORAH S. HUNT, Clerk  
CASE NO.: 1411012-FH  
BEFORE THE HONORABLE: JUDGE BUTH.  
MCL 750.520E  
AT A SESSION IN THE 17<sup>TH</sup> JUDICIAL CIRCUIT COURT

MR. STACEY R. SMITH  
PLAINTIFF (PETITIONER).  
PRO SE INFORMA PAUPERIS.

CASE NO.: 1:16-cv-1381.  
HON.: PAUL L. MALONEY.

Rebuttal and request for pardon.  
The Honorable: Governor Rick Snyder.

VS.

} **BRIEF FOR WRIT OF MANDAMUS EXTRAORDINAIRE  
WITH EXHIBITIONS. EXPARTE REQUEST FOR  
JUDICIAL REVIEW.**

Motion to Intervene in Challenge to Constitutionality of Law.  
FED R. APP P.44  
Detective Swiercz of the Wyoming Police Department.  
28 § U.S.C. 2403.

(D.O.J.) U.S. ATTORNEY GENERAL'S REFERENCE NO.: 3749088.

THE HONORABLE GEORGE S. BUTH P-11479.  
DEFENDANT. (RESPONDENT).

RESUBMITTED AND REVISED 01/03/2017.

NOW ENTERS THE PLAINTIFF IN RE, with a Writ of Mandamus directed to the defendant under the pending investigation with the Judicial Tenure Commission, JTC: 16-22385, and the Attorney Grievance Commission, AGC: 16-1551, while addressed to the United States Attorney General; The Honorable Mrs. Loretta Lynch, and the Michigan State Attorney General, The Honorable Mr. William Shuette, in challenge to the procedure held at a session in the 17<sup>th</sup> Judicial Circuit Court on 07/22/2015 – Case number 14-11012-FH. Also, Your Honor, Please be advised that it has been confirmed that the defendant is scheduled to retire. Date unknown.



### JURISDICTION AND VENUE.

Jurisdiction is conferred by MCL 600.4401, (Mandamus against state officials: The Honorable George S. Buth P-11479 (Presiding Judge), Joshua Kuiper P-66576 (Prosecutor)(Primary), Kevin Bramble P-38380 (Prosecutor) (Primary), Chris Becker P-53752 (Prosecutor), Pablo Cortes P-53757 (Presiding Judge at 62A Judicial District Court were proceedings originated), and Defense Counsel John R. Beason P-34095.

Jurisdiction is also conferred by MCR 3.305 (A) (1), MCR 3.303 (A), MCR 3.303 (A) (2), and MCR 3.303 (C) 1-7, MCR 3.303 (F) (1) (a), MCR 3.303 (F) (2). Jurisdiction is proper as the protected status of Article § 17 of the Michigan Constitution of 1963: **(PRIMA FACIE)**

**EXHIBIT (A) -FALSIFIED SELF-INCRIMINATION BY DETECTIVE SWIERCSZ WITH THE AFFIDAVIT FOR PROBABLE CAUSE FOR FELONY COMPLAINT 62A Judicial District Court:**

**EXHIBIT (B) § 17 Self-incrimination; due process of law; fair treatment at investigations.**

**Sec. 17. No person shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property, without due process of law.** The right of all individuals, firms, corporations and voluntary associations to fair and just treatment in the course of legislative and executive investigations and hearings shall not be infringed. History: Const. 1963, Art. I, § 17, Eff. Jan. 1, 1964. Former constitution: See Const. 1908, Art. II, § 16.

-Were relief is sought pursuant to said article, and pursuant to 28 U.S.C. § 2254 for Writ of Habeas Corpus: A Petition for Relief from Conviction Sentence, were Proof of Service has been satisfied to the Honorable George S. Buth P-11479 and also under above case number 1:16-cv-1381; U.S. District Court 113 Federal Building 315 West Allegen Street Lansing, Michigan 48933 before the honorable Paul L. Maloney were jurisdiction is also conferred pursuant to MCR 3.303 (F) (1) (A).

### PARTIES.

1. Plaintiff is now Stacey R. Smith under state custody through the Michigan Department of Corrections, hereinforth referred to as M.D.O.C. number 961806 from the session held in the 17<sup>th</sup> Judicial Circuit Court heard by the Defendant the Honorable George S. Buth P-11479 presiding judge now the defendant in case no.: 14-11012-FH under an involuntary guilty plea by defense counsel John R. Beason P-34095.

2. The Kent County Prosecutors Office and the prosecutors involved are Joshua Kuiper P-66576 (Prosecutor) (Primary), Kevin Bramble P-38380 (Prosecutor) (Primary), Chris Becker P-53752 (Prosecutor), along with the Honorable Pablo Cortes P-53757 of the 62A Judicial District Court to where the case originated in cooperation, not collaboration, with Detective Swiercz of the Wyoming Police Department. Also your Honor, please be advised that the Honorable Pablo Cortes is also the Vice Chair of the Judicial Tenure Commission to were a pending investigation is in progress for judicial misconduct: JTC:16-22385. The most proper jurisdiction for plaintiff's actions in this matter falls directly to 28 U.S.C. § 2254 (b1) subsection (bii) as follows:

Circumstances exist that render such process **ineffective to protect the rights of the applicant.** (This is pertinent as I am convinced that all the way up to Chief Justice Robert Young of the Michigan Supreme Court will be in question as I was assured by his General Counsel that the information that I sent in a panic state, and by mistake after discovering the FALSIFIED AFFIDAVIT FOR FELONY COMPLAINT and remitted an AGC complaint form unknowingly to his email and told that it was not compromised as it was reported to my probation officer somehow). Chief Justice Young maintains, from his General Counsel, that the Canons remain preserved.

#### FACTS AND CONTINUATION OF JURISDICTION AND VENUE.

28 U.S.C. § 2254 (d) (2) stipulates that:

(d)- An application for Writ of Habeus Corpus on behalf of a person in custody, (M.D.O.C.: 961806), pursuant to the judgment of the state court shall be granted with respect to any claim that was adjudicated on the merits in the state court proceedings unless the adjudication of the claim- (2); resulted in a decision that was based on, **EXHIBITS (A) (C) (D) (E) & (F), an unreasonable determination of facts** in light of the evidence presented, (or lack thereof), in the state court proceeding.

**EXHIBIT (A) (C) (D) & (F) - after reviewing the case on 11/14/2016, that there was information in the file that I discovered was false and not accurate when I read the Affidavit of Probable Cause For Felony Complaints from the 62A District court from a one Detective Swiercz from the Wyoming Police Department stating that I admitted to the elements that he stipulated in the affidavit. THIS IS NOT TRUE AND HE FALSIFIED THIS DOCUMENT TO PROMPT THE ARREST AND CONVICTION THAT I AM CURRENTLY UNDER. After discovery of this document to which I never seen or had knowledge of before or during the case or hearing, it clearly reveals to me that Mr. Joshua Kuiper along with especially Detective Swiercz set out on a campaign to entrap me and destroy my life with malice.**

**EXHIBIT (C) & (E) -In regards to the Felony Complaint, IF YOU WERE TO NOTICE THAT THE DATE OF OCCURENCE DET SWIERCZ PUT ON THE COMPLAINT WAS 04/01/14 AND THEN HE DATED IT FOR 06/01/14. BE ADVISE YOUR HONOR, I DID NOT START THE DAVID'S HOUSE UNTIL 06/13/14 WHICH WAS MY ORIENTATION DATE. THIS IS INCONSISTENT. HE ALSO STATED THAT I WAS THERE ON 06/01/14 AT 18:01 OR 6PM. I NEVER WORKED A SHIFT PASSED 5PM. THIS IS ALSO INCONSISTENT AND MY DEFENSE COUNSEL WAS AWARE AND JUST BRUSHED IT ASIDE WITH OUT CHALLENGING IT. (PLEASE REFER TO WORK SCHEDULE ENCLOSED.) EXHIBIT (F).**

28 U.S.C. § 2254 (e) (1): In the proceeding instituted by an application for Writ of Habeus Corpus by a person in custody pursuant to the judgment of the state court, a determination of a factual issue made by a state court shall be presumed to be correct. The applicant shall have the burden of rebutting the presumption of correctness by clear and convincing evidence. **EXHIBIT (B) PRIMA FACIE.**

28 U.S.C. § 2254 (e) (2) (A): The claim relies on- (ii) > a factual predicate that could not have been previously discovered, **EXHIBIT (A)**, through the exercise of due diligence; and (B) the facts underlying the claim would be sufficient to establish by clear and convincing evidence that but for constitutional error, no reasonable factfinder would have found the applicant guilty of the underlying offense.

**FORMULA:** MCR 6.108 (C) + (D) + (E) = MCR 6.108 (F) + (H). **EXHIBIT (I).**

1. MCR 6.108 (D) – If anything was withheld with reason by prosecution, prosecution should have exercised rule and properly notified Defense Counsel. Prosecution, to my knowledge, did not.

**FORMULA:**

(PROSECUTION)      (DEFENSE COUNSEL)

MCR 6.110 (C1) + (2a) + (2b) + (2c) + (2d) = MCR 6.201 (b2) + (b5) = MCR 6.201 (b2) + (b5)

The above formula should be equal to: MCR 6.201 (J) = VIOLATION. **EXHIBIT (J).**

28 U.S.C. § 2254 (e) (2) (F): If the applicant challenges the sufficiency of the evidence adduced in such a state court proceeding to support the court determination of factual issue made therein, the applicant, if able, shall produce that part of the record pertinent to a determination of the sufficiency of the evidence to support such determination. It further states:

If the applicant, because of indigence or other reason is unable to produce such part of the record, (THE AFFIDAVIT FOR PROBABLE CAUSE FOR FELONY COMPLAINT THAT I HAD NO

KNOWLEDGE OF AT THE TIME BEFORE OR DURING THE PROCEEDING), then the state shall produce such part of the record and the Federal Court shall direct the state to do so by order.

Discovered FALSIFIED SELF-INCRIMINATING AFFIDAVIT FOR PROBABLE CAUSE FOR FELONY COMPLAINT ON 11/14/2016 DURING MY PERSONAL REVIEW OF THE CASE AT THE 17<sup>th</sup> JUDICIAL CIRCUIT COURT. **EXHIBIT (A).**

28 U.S.C. § 2254 (g): A copy of the official records of the state court, duly certified by the clerk of such court to be a true and correct copy of the finding, judicial opinion, or reliable written indication showing such factual determination by the state court shall be admissible in the Federal Court proceeding.

#### FACTS AND CONTINUATION OF JURISDICTION AND VENUE.

In regards to line 4 of the Motion for Clarity, I was in discovery of the falsified self-incriminating statement were I was supposed to be protected under the Michigan Constitution under: **EXHIBIT (B)**

Article § 17 *Self-incrimination; due process of law; fair treatment at investigations.* Sec. 17. **No person shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property, without due process of law.** The right of all individuals, firms, corporations and voluntary associations to fair and just treatment in the course of legislative and executive investigations and hearings shall not be infringed. History: Const. 1963, Art. I, § 17, Eff. Jan. 1, 1964. Former constitution: See Const. 1908, Art. II, § 16.

Where I was cornered, coerced, and entrapped by Detective Swiercz with the 62A Affidavit for Probable Cause for Felony Complaint **EXHIBIT (A)**, while **EXHIBIT (D)**, the video of the police interview shows me denying the charges 3 times in minutes **19:45, 41:35, and 1:01:10** and coercion was used by Detective Swiercz on minutes **33:48, 37:57, and 1:04:40** to entrap me into court with cooperation, not collaboration, by Pablo Cortes P-53757, Joshua Kuiper P-66576, Kevin Bramble P-38380, George S. Buth P-11479, and Defense Counsel P-34095 with malice. Defense Counsel being aware of this should prove his corroboration while denying me a reasonable and proper defense and Judge Buth never challenging or questioning the Detective's methodology, which denies me DUE PROCESS pursuant to Article 17 of the Michigan Constitution. **EXHIBIT (B).**

Pursuant to the Government Intervention in Challenge to Constitutionality of Law, this fact should suffice the intervention of this Federal Court for relief and resolve. The petitioner, Plaintiff, Applicant respectfully request complete and total relief of this conviction based on these facts.

## COUNT 1 OF MANDAMUS. EXHIBIT (K)

ACG: 16-1551. ITEMIZATION: THE HONORABLE GEORGE S. BUTH P-11479.

1. Line 4 of the Motion for Clarity, the judge did not take the inconsistencies into consideration when I stated, "after reviewing the case on 11/14/2016, that there was information in the file that I discovered was false and not accurate when I read the Affidavit of Probable Cause for Felony Complaint from 62A District Court from a one Detective Phillip Swiercz from the Wyoming Police Department, that I admitted to the elements that he stipulated in the affidavit. THIS IS NOT TRUE AND DETECTIVE SWIERCZ FALSIFIED THIS DOCUMENT TO PROMPT THE ARREST AND COVICTION THAT IAM CURRENTLY UNDER. Judge Buth over looked the details of the inconsistencies on the dates on the 62A complaint and the police report were Detective Swiercz stated that the occurrence happened on 04/01/2014 on the police report, then put the occurrence date of 06/01/2014 on the 62A Felony Complaint and also stipulated that on 06/01/2014 that I was there at 6pm when I never worked a shift past 5pm. Please refer to enclosed work schedule. EXHIBIT (F)
2. The judge never acknowledged or questioned that the Discover Motion by Defense Counsel had been completely ignored while Defense Counsel failed to subpoena said DVD in question.
3. Page 2 2<sup>nd</sup> paragraph of the Motion for Clarity, I stated how the judge re-stated about the charges in a different manner that did not directly pertain to the exact charge as I then plead guilty involuntarily because of Defense Counsel of 4<sup>th</sup> degree CSC because I realized that I had no way out while Defense Counsel went along with Prosecution and not defending me at all, and then the judge just pushed the case through. (NOTE: This occurred off the record as you will see the court reporter entering in a sidebar.) I plead guilty, involuntarily because Defense Counsel lied to me and stated, "pleading guilty to CSC 4 that it would not show up on a background check and would only be available to the police and would allow me to get a job without it showing up which sounded like the only way out of this matter. I lost my existing job at the time with Uhaul in the middle of a promotion to Assistant Manager when the charge surface during their background check which was policy and I don't fault Uhaul for following policy. This is one of the reason I felt an investigation was warranted for prosecutorial and judicial misconduct.
4. Being denied proper counsel and being denied (court appointed counsel when proving my indigence is another reason an investigation is warranted). EXHIBIT (H)

5. Pages 2 & 3 on the Supplemental Brief in Support of Counter-Complaint were Due Process was violated by the judge not reviewing the police interview and overlooking the inconsistencies which would have brought into question why I denied the allegations 3 times in and the judge should have detected coercion from Detective Phillip Swiercz during the police interview. **EXHIBIT (D)**
6. The judge should have determined that the prosecutor Joshua Kuiper P-66576, purposely mis-identified my statement in minute 49:50 of the police interview as a friendship and allowed the prosecutor to continue a fabricated charge of MCL 750.520C (1) (H), **EXHIBIT (N)**, to enforce the greatest possible charge against me as I stated in the police interview as the victim and I having a friendship not relationship. This was done with malice. The judge stating, "I DON'T CARE. Charge him with gross indecency", during the deliberations between Prosecution and Defense Counsel before the case began. **CANON 2 (B) of the Michigan Judicial Code of Conduct. Was the judge being respectful?**
7. MCR 6.201 (J) VIOLATION: Parties are encouraged to bring into question of noncompliance before the court at the earliest opportunity. (THIS IS MY EARLIEST OPORTUNITY SINCE DEFENSE COUNSEL FAIL TO DO SO). Willful violation by counsel of an applicable discovery rule or an order issued pursuant thereto may subject counsel to appropriate sanctions by the court. The judge should have sanctioned the Prosecutor for malicious attempt to misconstrue defendant's statement in minute 49:50 of the police interview. **EXHIBIT (D)**

COUNT 2 OF MANDAMUS. **EXHIBIT (L)**

ACG: 16-1551. ITEMIZATION: JOSHUA KUIPER P-66576 and KEVIN BRAMBLE P-38380.

1. Joshua Kuiper and Kevin Bramble assisted Detective Swiercz with the knowledge of the falsified Probable Cause Complaint with inconsistencies along with misconstruing minute 49:50 as a relationship when I stated friendship to make it fall under MCL 750.520C (1) (H), **EXHIBIT (N)**, to COMPOUND a falsified SELF-INCRIMINATING STATEMENT **EXHIBIT (A)**, to ENTRAP me in conjunction with Detective Swiercz with MALICE:

**EXHIBIT (B)** § 17 Self-incrimination; due process of law; fair treatment at investigations.

Sec. 17. No person shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property, without due process of law. The right of all individuals, firms, corporations and voluntary associations to fair and just treatment in the course of legislative and executive investigations and hearings shall not be infringed.



## History:

Const. 1963, Art. I, § 17, Eff. Jan. 1, 1964.

Former constitution:

See Const. 1908, Art. II, § 16.

2. Prosecutor's office and Joshua Kuiper and Kevin Bramble ignored the Discovery Motion when Defense Counsel requested or attempted to examine the DVD, at my request, that Detective Swiercz presented during the police interview. His cooperation and his misconstruing MCL 750.520C (1) (H), **EXHIBIT (N) WITH EXHIBIT'S (A) AND (B)** should establish PROOF OF ENTRAPMENT.
3. Prosecutors Office along with Joshua Kuiper and Kevin Bramble denied me Due Process by knowingly allowing a falsified statement with inconsistencies and deviating minute 49:50, **EXHIBIT (D)**, of the police interview with the confidence that no one will take notice to coerce and entrap me into court.
4. Prosecution ignored minute 42:50, **EXHIBIT (D)**, when I stated that the victim was the persistent initiator twice and did not bring this into question to the victim or themselves intentionally.
5. The other recent occurrence of Joshua Kuipers behavior should also bring into question his ethics:

**For Example, in the event of Joshua Kuiper P-66576 on 12/02/2016 on WOODTV 8 is showing him receiving special treatment for his irresponsibility of driving from a party for Former Prosecutor William Forsyth, hitting a parked car compromising the safety of the general public and having a GRPD police officer who is also responsible for the safety of the general public, assist him in special treatment, (by not providing an on the spot breathalyzer test to capture physical evidence of his alcohol level for prosecution), to help him get away with a CRIME!!!!!!**

COUNT 3 OF MANDAMUS. **EXHIBIT (M)**

ACG: 16-1551. ITEMIZATION: DEFENSE COUNSEL JOHN R. BEASON P-34095.

1. Defense Counsel stated that, "there was nothing else that he could do", when I asked him about clarity in regards to the conditions of my probation when I inquired about WRITTEN AUTHORIZTION to us the computer facility at Michigan Works.
2. Defense Counsel stated, "there was nothing else that he could do", when I mentioned that I was in discovery about the falsified Affidavit Probable Cause for Felony Complaint, **EXHIBIT (A)**, that I had no knowledge of before or during the case when I discovered

that Detective Swiercz falsified the affidavit after reviewing the case on 11/14/2016 and brought it to his attention on the same day by dropping off a copy of the affidavit with no later response at all.

3. I mention the first time about the inconsistencies during the case to Defense Counsel and he just brushed it aside and never once challenged it or brought it into question by failing to request a **Probable Cause Conference pursuant to MCR 6.108 during the Preliminary Examination before the case initiated.**
4. Defense Counsel stated on the record that I attested a fourth time that I did not touch the victim's penis on the sentencing transcript.
5. After Defense Counsel submitted the Discovery Motion which had been ignored by the Prosecutor's Office before the case, **Defense Counsel failed to submit a subpoena pursuant to MCR 6.108 (C) for examination of the DVD in question that Detective Swiercz placed on the desk during the police interview and used it to COMPOUND COERCION AND ENTRAPMENT. Minute 33:20 of the police interview. EXHIBIT (D)**
6. Defense Counsel failed in providing me with proper counsel by going along with the wishes of the prosecutor instead of properly accommodating me with a reasonable defense which infringes upon Article 17 of the Michigan Constitution of 1963 as follows:  
**EXHIBIT (B)**

§ 17 Self-incrimination; due process of law; fair treatment at investigations.

Sec. 17. **No person shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property, without due process of law.** The right of all individuals, firms, corporations and voluntary associations to fair and just treatment in the course of legislative and executive investigations and hearings shall not be infringed.

History:

Const. 1963, Art. I, § 17, Eff. Jan. 1, 1964.

Former constitution:

See Const. 1908, Art. II, § 16.

7. Defense Counsel failed to challenge my denial of the allegations 3 times and resorted to the plea as a quick way to make 2500.00 while bragging that he normally charges 5000.00 dollars for a case of this nature. During the police interview the prosecutor and Defense counsel purposely ignored me denying the allegations 3 times and also ignored the 3 attempts by Detective Swiercz of coercion and entrapment and Defense Counsel never challenge or brought into question the detectives methodology. Defense Counsel also failed to challenge the, FALSE SELF-INCRIMINATING statement that Detective Swiercz used to entrap me. PLEASE REFER TO AFFIDAVIT FOR PROBABLE CAUSE FOR FELONY COMPLAINT. (FALSIFIED). **EXHIBIT (A)**



8. Defense Counsel never challenged the inconsistencies of the dates on the police report or Felony complaint during the case and brushed it aside before the case. Detective Swiercz dated the police report of the occurrence 04/01/2014, **EXHIBIT (E)**, and then dated the Felony complaint of the occurrence 06/01/2016, **EXHIBIT (C)**, when my work schedule from the David's House shows and proves that I did not start at the David's House until 06/13/2014. (INCONSISTENT). Defense Counsel never brought this into question nor did he challenge it at all. This is pertinent. **For a lack of a better term: Defense Counsel was in bed with the Prosecutor on this with the judge joining them both.**
9. **Defense Counsel Stating to me, "you do know that you will have to register as a sex-offender right?"** Which clearly indicates his intentions to go along with prosecution to state this before the case even began instead of providing me with a proper defense and depriving me of DUE PROCESS ARTICLE § 17 Self-incrimination by allowing the falsified document to go unchallenged. And, **EXHIBIT (H)**, the court denying me court appointed counsel while proving my indigence.
10. Defense Counsel failed to discharge defendant and move to dismiss when he should have been in discovery or knowledge of the falsified document, Probable Cause Complaint and the dates on the police report issued by Detective Swiercz and move to dismiss pursuant to MCR 6.108 (E), (F), (H).

**FORMULA:** MCR 6.108 (C) + (D) + (E) = MCR 6.108 (F) + (H). **EXHIBIT (I)**

11. MCR 6.108 (D) – If anything was withheld with reason by prosecution, prosecution should have exercised rule and properly notified Defense Counsel. Prosecution, to my knowledge, did not.

**FORMULA:**

MCR 6.110 (C1) + (2a) + (2b) + (2c) + (2d) = MCR 6.201 (b2) + (b5) = MCR 6.201 (b2) + (b5)

The above formula should be equal to: MCR 6.201 (J) = VIOLATION. **EXHIBIT (J)**

Which infers a SANCTION which is absent.

12. I was also denied the opportunity to provide a Defense Impact Statement wo were my Defense Counsel refused.

**COUNT 4 OF MANDAMUS. EXHIBIT (D)**

5. Collectively, this all should display coercion and entrapment and should be recognized as a gross violation of DUE PROCESS:

(A.) By being denied proper counsel and being denied court appointed counsel.

(B.) Defense counsel stating, "You know you will have to register as a sex offender", which clearly displays his intent to go along with prosecution. This was before the case even began.

(C.) In the minutes of the police interview, I denied the occurrence 3 times. And would like to list the minutes in detail for direct reference as I have enclosed the video for review.

**ITEMIZATION OF DETAILS IN POLICE INTERVIEW:**

**MINUTES:**

**19:45 – DENIED ALLEGATIONS.**

**20:58 - DETECTIVE AFFIRMING VICTIM'S COGNITION.**

**22:50 – POLICY (NO).**

**25:10 – CATHETER.**

**25:45 – COGNITION.**

**25:35 – DETECTIVE STATES HE WILL BE RIGHT BACK AND RETURNS WITH BLANK DVD IN AN EFFORT TO COMPOUND COERCION AND ENTRAPMENT.**

**33:20 – DVD PLACED ON DESK.**

**33:48 – ACT OF COERCION AND ENTRAPMENT.**

**35:54 – VICTIM STATES HE WAS NOT APPAULED BY THIS WHICH INFERES THAT SOMEONE ELSE WAS IMPLIES THAT THE ALLEGED ACT WAS UNWANTED.**

**39:09 – HE IMPLIED TOUCHING.**

**41:35 – SECOND DENIAL TO ALLEGED CHARGES.**

**41:58 – I IMPLIED CHEEK TO CHEEK**

**42:50 – I STATE THAT THE VICTIM WAS THE PERSISTANT INITIANT.**

**43:46 – THE SAME AS MINUTE 42:50 VICTIM WAS PERSISTANT INITIANT.**

**45:53 – I DID NOT BRING THIS UP.**

**EXHIBIT (N) 49:50 – I IDENTIFIED THE INCIDENT AS A FRIENDSHIP NOT RELATIONSHIP. THE DETECTIVE AND PROSECUTOR USED THIS TO MISCONSTRUE THIS TO MAKE IT APPEAR AS A RELATIONSHIP TO FALL UNDER MCL 750.520 C (1) (H).**

**48:45 – DETECTIVE SWIERCZ USING MISLEADING STATEMENTS IN AN EFFORT TO COERCE AND ENTRAP.**

**50:35 – CHECKING CATHETER.**

**52:03 – THE DETECTIVE STATING THAT THERE WAS A NANNY CAM WHICH PROMPTED THE DISCOVERY MOTION BY DEFENSE COUNSEL AND WAS NOT PRODUCED BY PROSECUTION.**

**53:33 – DETECTIVE NOT BEING TRUTHFUL BY GIVING ME THE IMPRESSION THAT PROSECUTION WOULD DECIDE THE CHARGES AS HE WAS THE ON I DISCOVERED FILE THE PROBABLE CAUSE COMPLAINT WHICH TRIGGERED ARREST AND CONVICTION. (ENTRAPMENT).**

**1:01:10 – 3<sup>RD</sup> DENIAL OF ALLEGED CHARGES.**

**1:04:40 – MISCONSTRUED COERCION.**

**In summary, your Honor, I denied the charges 3 times on minutes 19:45, 41:35, and 1:01:10 and coercion was used by Detective Swiercz on minutes 33:48, 37:57, and 1:04:40.**

WHEREAS THE PLAINTIFF, prays for complete relief and exoneration of this conviction if it so convinces this honorable court. Under the United States Constitution Art. III § 2, this court has jurisdiction because the rights sought to be protected herein are secured by the United States Constitution.

Jurisdiction is proper pursuant to 28 U.S.C. § 1361 under which this court, **this court your honor**, has the power to compel an officer of the United States to perform his duty- The District Court to execute mandamus to either the Michigan Court of Appeals, The U. S. Court of Appeals, The Judicial Tenure Commission. The Attorney Grievance Commission, the U. S. Attorney General, the Michigan State Attorney General, but not limited to the defendant or the Kent County Prosecutor's Office or to whomever the Federal Judge deems as necessary or proper to come a resolve.

Also, your honor, please also be advised that retaliation is imminent after your decision.

## NOTARY AND PROOF OF SERVICE.

OF BRIEF FOR WRIT OF MANDAMUS WITH EXHIBITIONS.

ATTENTION NOTARY: SIGNATURE OF MR. STACEY R. SMITH ONLY.

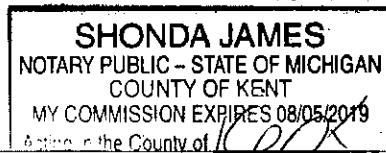
SUBSCRIBED AND SWORN BEFORE ME THIS 4th DAY OF January 2017

IN THE COUNTY OF:

COUNTY

SIGNATURE OF NOTARY

SEAL OF NOTARY:



STAMP OF NOTARY

MY COMMISSION EXPIRES.

SIGNATURE OF MR. STACEY R. SMITH ONLY

## PROOF OF SERVICE.

I certify under the penalty of perjury of the State of Michigan, that I mailed a true copy of this document to the addresses above on this 4th day of January 2017 A.D. by US first class mail.

Mr. Stacey R. Smith  
855 Kalamazoo Ave SE  
Grand Rapids, Michigan 49507.  
616-350-5709.

01/03/2017.

## **PROOF OF SERVICE.**

U.S. District Court for the Western District of Michigan.  
399 Federal Building  
110 Michigan Ave NW  
Grand Rapids, Michigan 49503.

1:16-cv-1381  
HON.: Paul L. Maloney.

The Honorable: George S. Buth P-11479.  
Kent County Courthouse.  
Suite No.: 12200A.  
180 Ottawa Ave NW  
Grand Rapids, Michigan 49503.  
616-632-5020.

Governor Rick Snyder.  
P.O. Box 30013  
Lansing, Michigan 48909.

The United States Department of Justice.  
The United States Attorney General.  
The Honorable: Mrs. Loretta Lynch.  
950 Pennsylvania Ave NW  
Washington D.C. 20530-0001.  
202-514-2000. V.

Michigan State Attorney General's Office.  
Michigan State Attorney General.  
The Honorable: Mr. William Schuette.  
G. Mennen Williams Building, 7<sup>th</sup> Floor.  
525 W Ottawa ST.  
P.O. Box 30212.  
Lansing, Michigan 48909.  
517-373-1110 V.  
517-373-3042 F.

JTC No.: 16-22385.  
AGC No.: 16-1551.

(THE JUDICIAL TENURE COMMISSION) (ATTORNEY GREIVANCE COMMISSION).  
3044 W. Grand Blvd  
Detroit, Michigan 48202.  
313-875-5110. V.  
313-875-5154. F.  
[judicialtenure@courts.mi.gov](mailto:judicialtenure@courts.mi.gov)  
<http://jtc.courts.mi.gov>

Buhl Building LLC.  
535 Griswold St.  
Detroit, Michigan 48226.  
313-961-6585. V.  
<http://www.agcmi.org/>

The White House.  
The President of the United States of America.  
1600 Pennsylvania Ave NW  
Washington, DC 20500.  
202-456-1414.

U.S. District Court.  
ATTENTION: Magistrate Judge: Ray Kent.  
113 Federal Building.  
315 West Allegen St.  
Lansing, Michigan 48933.

**PROOF OF SERVICE.**

**To the above mentioned and to the:**

**Honorable: George S. Buth.**

**As required and informed by:**

**The Court Clerk of the**

**U.S. District Court.  
113 federal Building  
315 West Allegen Street.**

**Lansing, Michigan 48933.**

**PROOF OF SERVICE.**

**I certify under the penalty of perjury of the United States of America and State of Michigan, that I mailed a true copy of this document to the addresses above on this 6th day of January 2017 A.D. by US first class mail.**

  
\_\_\_\_\_  
**SIGNATURE OF MR. STACEY R. SMITH ONLY.**

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

STACEY R. SMITH,

Plaintiff,

v.

GEORGE S. BUTH,

Defendant.

---

Case No. 1:16-cv-01381-PLM-RSK

Hon. Paul L. Maloney

**ORDER REJECTING PLEADING**

The Court has examined the following document(s) received December 21, 2016 and orders the Clerk to reject the Complaint for Writ of Mandamus and return the document(s) to Stacey R. Smith for the reason(s) noted below:

Plaintiff's cause of action is based upon a 'Complaint of judicial misconduct or disability.' This submission is a complaint to initiate a different cause of action.

IT IS SO ORDERED.

Dated: December 22, 2016

/s/ Ray Kent  
RAY KENT  
U.S. Magistrate Judge

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

STACEY R. SMITH,

Plaintiff,

Case No. 1:16-cv-01381-PLM-RSK

v.

Hon. Paul L. Maloney

GEORGE S. BUTH,

Defendant.

---

**ORDER REJECTING PLEADING**

The Court has examined the following document(s) received December 19, 2016 and orders the Clerk to reject the Miscellaneous Documents and return the document(s) to Stacey R. Smith for the reason(s) noted below:

Stacey R. Smith has submitted documents which are nonsensical in nature. If Stacey R. Smith intends for such documents to be used as exhibits, he must submit the documents attached to a pleading, motion or brief, specifically setting out the purpose and relevance to this case.

IT IS SO ORDERED.

Dated: December 22, 2016

/s/ Ray Kent  
RAY KENT  
U.S. Magistrate Judge



STATE OF MICHIGAN  
62A DISTRICT COURTAFFIDAVIT OF PROBABLE CAUSE  
FOR FELONY COMPLAINTS

CASE NO.

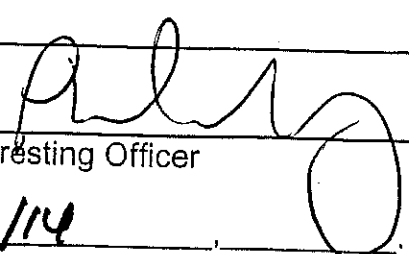
**EXhibit (A)**2650 DEHOOP AVE SW WYOMING MI 49509  
Court Address(616) 257-9814  
Court TelephonePolice Agency: WyomingComplaint Number: 14-29462 Date: 10/30/14Charge: CSC 2NDDefendant: Stacey Rend. / Smith 3/12/69

Describe the events proving the elements of crime charged:

Δ did engage in sexual contact w/ another person who is mentally disabled + Δ being in a position of authority over the victim

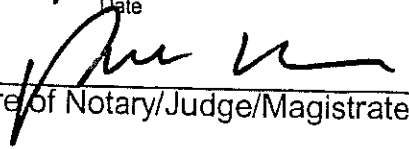
Probable cause to arrest defendant:

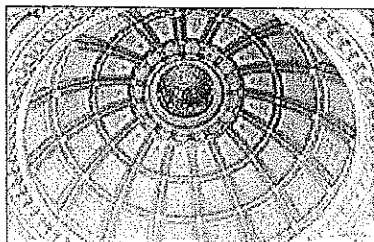
Δ being a therapist to victim, helping to work range of motion of muscles. Victim is mentally disabled and confined to a wheel chair. Δ did admit to kissing the victim and also placing his hand down the victim's pants to adjust catheter. Δ admit fixing catheter was not his job. Victim reported that (fixing) of her penis & kissing was not consensual.

  
Arresting Officer
Subscribed and sworn to before me on 10/30/14

Date

Year

Probable Cause Found: ☒ N
  
Signature of Notary/Judge/Magistrate



# MICHIGAN LEGISLATURE

Michigan Compiled Laws Complete Through PA 327 of 2016  
 House: Adjourned until Wednesday, January 11, 2017 12:00:00 PM  
 Senate: Adjourned until Wednesday, January 11, 2017 12:00:00 PM

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CONSTITUTION  
OF MICHIGAN OF  
1963

Constitution-I

Article I § 17

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## Article I § 17

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**EXhibit (B)**

### STATE CONSTITUTION (EXCERPT) CONSTITUTION OF MICHIGAN OF 1963

#### § 17 Self-incrimination; due process of law; fair treatment at investigations.

Sec. 17.

No person shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property, without due process of law. The right of all individuals, firms, corporations and voluntary associations to fair and just treatment in the course of legislative and executive investigations and hearings shall not be infringed.

**History:** Const. 1963, Art. I, § 17, Eff. Jan. 1, 1964

**Former Constitution:** See Const. 1908, Art. II, § 16.

© 2015 Legislative Council, State of Michigan

Exhibit (C)

JM

<b>STATE OF MICHIGAN</b> <b>32A DISTRICT COURT</b>		<b>COMPLAINT</b> <b>FELONY</b>		<b>CASE NO.:</b> <b>DISTRICT:</b> <b>CIRCUIT:</b>	
Circuit Court ORI: MI-410025J					
<b>THE PEOPLE OF THE</b> <b>STATE OF MICHIGAN</b>		Defendant's name and address <b>SMITH, STACEY RENDIL</b> <b>1632 HAVANA AVENUE SW</b> <b>WYOMING, MI 49509</b>		Victim or complainant <b>KEVIN HENRY HEYS</b>	
Co-defendant(s)				Complaining Witness <b>OFFICER PHILIP SWIERCZ</b>	
City/Twp./Village <b>WYOMING</b>		County in Michigan <b>KENT</b>	Defendant TCN	Defendant CTN <b>41 14 012630 99</b>	Date: <b>ON OR ABOUT 06/01/2014</b>
Police agency report no. <b>WY1429462</b>	Charge <b>See below</b>	Defendant DLN <b>S530777734189</b>	Location <b>2387 BANNER DR SW</b>		Defendant DOB <b>03/12/1969</b>
Witnesses <b>OFFICER PHILIP SWIERCZ</b> <b>KEVIN HENRY HEYS</b> <b>ANN MARIE BRAFORD</b> <b>DR GIBIBALDI</b>		<b>OFFICER ANTHONY JACOBS</b> <b>KYLE HENRY HEYS</b> <b>RUTH ANNE BONFIGLIO</b> <b>DR STEVEN PASTYRNUK</b>		<b>OFFICER MITCHELL VELDMAN</b> <b>GWENDOLYN HEYS</b> <b>LENNY TREECE</b> <b>DR TIMOTHY ROYER</b>	
				Maximum Penalty <b>See below</b>	

**STATE OF MICHIGAN, COUNTY OF KENT**

The complaining witness says that on the date and at the location described above, the defendant, contrary to law,

**COUNT 1****CRIMINAL SEXUAL CONDUCT SECOND DEGREE (MENTALLY DISABLED-RELATIONSHIP)**

did engage in sexual contact with another person, to-wit: KEVIN HEYS, said victim being mentally disabled, and said defendant being in a position of authority over the victim and used this authority to coerce the victim to submit; contrary to MCL 750.520c(1)(h). [750.520C1H]

This is a Tier II offense under the Sex Offender Registration Act (SORA) if the victim is 13 or older. MCL 28.722(u)(ix) & (x). It is a Tier III offense if victim is under 13. MCL 28.722(w)(v). It is a Tier III offense if the defendant has a prior conviction for a Tier II offense. MCL 28.722(u)+(v).

Take notice that pursuant to MCL 333.5129, upon bindover to circuit court or recorder's court, the district court judge shall order the defendant to be tested for venereal disease, hepatitis B infection, and for the presence of HIV or an antibody to HIV if the judge determines there is reason to believe the violation involved sexual penetration or exposure to a body fluid of the defendant. If the district judge determines that testing is not required, upon conviction, the court must order the defendant to be tested.

**FELONY: 15 Years; mandatory AIDS/STD testing; DNA to be taken upon arrest.**

**COUNT 2****CRIMINAL SEXUAL CONDUCT SECOND DEGREE (MENTALLY DISABLED-RELATIONSHIP)**

did engage in sexual contact with another person, to-wit: KEVIN HEYS, said victim being mentally disabled, and said defendant being in a position of authority over the victim and used this authority to coerce the victim to submit; contrary to MCL 750.520c(1)(h). [750.520C1H]

This is a Tier II offense under the Sex Offender Registration Act (SORA) if the victim is 13 or older. MCL 28.722(u)(ix) & (x). It is a Tier III offense if victim is under 13. MCL 28.722(w)(v). It is a Tier III offense if the defendant has a prior conviction for a Tier II offense. MCL 28.722(u)+(v).

Take notice that pursuant to MCL 333.5129, upon bindover to circuit court or recorder's court, the district court judge shall order the defendant to be tested for venereal disease, hepatitis B infection, and for the presence of HIV or an antibody to HIV if the judge determines there is reason to believe the violation involved sexual penetration or exposure to a body fluid of the defendant. If the district judge determines that testing is not required, upon conviction, the court must order the defendant to be tested.

**FELONY: 15 Years; mandatory AIDS/STD testing; DNA to be taken upon arrest.**

**Exhibit (c)**

COUNT 3

CRIMINAL SEXUAL CONDUCT SECOND DEGREE (MENTALLY DISABLED-RELATIONSHIP)

did engage in sexual contact with another person, to-wit: KEVIN HEYS, said victim being mentally disabled, and said defendant being in a position of authority over the victim and used this authority to coerce the victim to submit, contrary to MCL 750.520c(1)(h). [750.520C1H]

## SORA NOTICE


This is a Tier II offense under the Sex Offender Registration Act (SORA) if the victim is 13 or older. MCL 28.722(u)(ix) & (x). It is a Tier III offense if victim is under 13. MCL 28.722(w)(v). It is a Tier III offense if the defendant has a prior conviction for a Tier II offense. MCL 28.722(u)+(v).

## HIV/STD TESTING NOTICE

Take notice that pursuant to MCL 333.5129, upon bindover to circuit court or recorder's court, the district court judge shall order the defendant to be tested for venereal disease, hepatitis B infection, and for the presence of HIV or an antibody to HIV if the judge determines there is reason to believe the violation involved sexual penetration or exposure to a body fluid of the defendant. If the district judge determines that testing is not required, upon conviction, the court must order the defendant to be tested.

FELONY: 15 Years; mandatory AIDS/STD testing; DNA to be taken upon arrest.

The complaining witness asks that defendant be apprehended and dealt with according to law.

Warrant authorized on:	10/30/2014
	Date
By:	

Complaining witness signature	
Subscribed and sworn to before me on	Date
Judge/Magistrate/Clerk	Bar no.





# Wyoming Police Department

CASE REPORT  
2300 DeHoop, S.W.  
Wyoming, MI 49509

CASE # 2014-00029462

ASSOCIATED CASE #

SWISPC2

(25 of 283)

EVENT	REPORTED DATE/TIME 10/07/2014 16:05	Offense Type CSC	CASE STATUS AT TIME OF REPORT Open
	OCCURRED FROM DATE/TIME 04/01/2014 18:01	OCCURRED TO DATE/TIME 10/07/2014 16:05	LOCATION OF OCCURRENCE/PREMISE TYPE 2387 BANNER DR SW, # WYOMING 49509

670

OFFENSES	DESCRIPTION	ATTEMPT/COMMIT
	1177 CSC 2ND DEGREE -FORCIBLE CONTACT	Completed

SUBJECT	SUBJECT TYPE Suspect	NAME (LAST, FIRST, MIDDLE) SMITH, STACEY Rendil		PRIMARY PHONE 238-6432					
	ADDRESS								
	DOB 3/12/69	AGE or AGE RANGE 30	SEX M	RACE B	HEIGHT or RANGE 6' 5"	WEIGHT or RANGE 240 LBS	EYES Brown	HAIR Black	PHONE #2
	DL NUMBER/STATE	SSN	Other Contact Info		PHONE #3				
	FBI NUMBER	BID NUMBER	CITATION NUMBER	ALIAS (LAST, FIRST, MIDDLE) /AKA					
	SCHOOL/EMPLOYER, ADDRESS AND PHONE #					HEALTH CARE ASSOCIATES, (616)531-9973			

SUBJECT	SUBJECT TYPE Victim	NAME (LAST, FIRST, MIDDLE) HEYS, KEVIN HENRY		PRIMARY PHONE					
	ADDRESS								
	DOB	AGE or AGE RANGE	SEX	RACE	HEIGHT or RANGE	WEIGHT or RANGE	EYES	HAIR	PHONE #2
	DL NUMBER/STATE	SSN	Other Contact Info		PHONE #3				
	FBI NUMBER	BID NUMBER	CITATION NUMBER	ALIAS (LAST, FIRST, MIDDLE) /AKA					
	SCHOOL/EMPLOYER, ADDRESS AND PHONE #								

SUBJECT	SUBJECT TYPE Witness	NAME (LAST, FIRST, MIDDLE) HEYS, KYLE HENRY		PRIMARY PHONE					
	ADDRESS								
	DOB	AGE or AGE RANGE	SEX	RACE	HEIGHT or RANGE	WEIGHT or RANGE	EYES	HAIR	PHONE #2
	DL NUMBER/STATE	SSN	Other Contact Info		PHONE #3				
	FBI NUMBER	BID NUMBER	CITATION NUMBER	ALIAS (LAST, FIRST, MIDDLE) /AKA					
	SCHOOL/EMPLOYER, ADDRESS AND PHONE #								

REPORTING OFFICER

Jacob, Anthony 4868

DATE

10/07/2014

REVIEWED BY

Hunt, David



# Wyoming Police Department

Case: 17-022 Document ID: 17-022 Filed: 01/09/2017 Page: 24

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**CASE REPORT**  
2300 DeHoop, S.W.  
Wyoming, MI 49509

ASSOCIATED CASE #

2014-00029462

**Exhibit (E)**

<b>EVENT</b>	REPORTED DATE/TIME	10/07/2014 16:05	Offense Type	CSC	CASE STATUS AT TIME OF REPORT	Open
	OCCURRED FROM DATE/TIME	04/01/2014 18:01	OCCURRED TO DATE/TIME	10/07/2014 16:05	LOCATION OF OCCURRENCE/PREMISE TYPE	2387 BANNER DR SW, # WYOMING 49509

<b>OFFENSES</b>	DESCRIPTION	ATTEMPT/COMMIT

<b>SUBJECT</b>	SUBJECT TYPE	Parent	NAME (LAST, FIRST, MIDDLE)	HEYS, GWENDOLYN	PRIMARY PHONE				
	ADDRESS					PHONE #2			
	DOB	AGE or AGE RANGE	SEX	RACE	HEIGHT or RANGE	WEIGHT or RANGE	EYES	HAIR	PHONE #3
	DL NUMBER/STATE	SSN				Other Contact Info			
	FBI NUMBER	SID NUMBER	CITATION NUMBER		ALIAS (LAST, FIRST, MIDDLE)/AKA				
	SCHOOL/EMPLOYER, ADDRESS AND PHONE #								

<b>SUBJECT</b>	SUBJECT TYPE	Other	NAME (LAST, FIRST, MIDDLE)	BRAFORD, ANN MARIE	PRIMARY PHONE				
	ADDRESS					PHONE #2			
	DOB	AGE or AGE RANGE	SEX	RACE	HEIGHT or RANGE	WEIGHT or RANGE	EYES	HAIR	PHONE #3
	DL NUMBER/STATE	SSN				Other Contact Info			
	FBI NUMBER	SID NUMBER	CITATION NUMBER		ALIAS (LAST, FIRST, MIDDLE)/AKA				
	SCHOOL/EMPLOYER, ADDRESS AND PHONE #								

<b>SUBJECT</b>	SUBJECT TYPE	Other	NAME (LAST, FIRST, MIDDLE)	BONFIGLIO, RUTH ANNE	PRIMARY PHONE				
	ADDRESS					PHONE #2			
	DOB	AGE or AGE RANGE	SEX	RACE	HEIGHT or RANGE	WEIGHT or RANGE	EYES	HAIR	PHONE #3
	DL NUMBER/STATE	SSN				Other Contact Info			
	FBI NUMBER	SID NUMBER	CITATION NUMBER		ALIAS (LAST, FIRST, MIDDLE)/AKA				
	SCHOOL/EMPLOYER, ADDRESS AND PHONE #								

REPORTING OFFICER  
Jacob, Anthony 4868

DATE  
10/07/2014

REVIEWED BY  
Hunt, David





# Wyoming Police Department

Case: 17-1922

Incident: 214

Filed: 01/09/2017

Page: 25

(27 of 283)

CASE REPORT  
2300 DeHoop, S.W.  
Wyoming, MI 49509

ASSOCIATED CASE #

CASE# 2014-00029462

**Exhibit (E)**

EVENT	REPORTED DATE/TIME	10/07/2014 16:05	Offense Type	CSC	CASE STATUS AT TIME OF REPORT	Open
	OCCURRED FROM DATE/TIME	04/01/2014 18:01	OCCURRED TO DATE/TIME	10/07/2014 16:05	LOCATION OF OCCURRENCE/REMS TYPE	2387 BANNER DR SW, # WYOMING 49509

OFFENSES	DESCRIPTION	ATTEMPT/COMMIT

SUBJECT	SUBJECT TYPE	Other	NAME (LAST, FIRST, MIDDLE)	TREECE, LENNY				PRIMARY PHONE		
	ADDRESS								PHONE #2	
	DOB	AGE or AGE RANGE	SEX	RACE	HEIGHT or RANGE	WEIGHT or RANGE	EYES	HAIR	PHONE #3	
	DL NUMBER/STATE	M		U	SSN	Other Contact Info				
	FBI NUMBER	SID NUMBER	CITATION NUMBER		ALIAS (LAST, FIRST, MIDDLE)/AKA					
	SCHOOL/EMPLOYER, ADDRESS AND PHONE #									

SUBJECT	SUBJECT TYPE		NAME (LAST, FIRST, MIDDLE)					PRIMARY PHONE		
	ADDRESS								PHONE #2	
	DOB	AGE or AGE RANGE	SEX	RACE	HEIGHT or RANGE	WEIGHT or RANGE	EYES	HAIR	PHONE #3	
	DL NUMBER/STATE				SSN	Other Contact Info				
	FBI NUMBER	SID NUMBER	CITATION NUMBER		ALIAS (LAST, FIRST, MIDDLE)/AKA					
	SCHOOL/EMPLOYER, ADDRESS AND PHONE #									

SUBJECT	SUBJECT TYPE		NAME (LAST, FIRST, MIDDLE)					PRIMARY PHONE		
	ADDRESS								PHONE #2	
	DOB	AGE or AGE RANGE	SEX	RACE	HEIGHT or RANGE	WEIGHT or RANGE	EYES	HAIR	PHONE #3	
	DL NUMBER/STATE				SSN	Other Contact Info				
	FBI NUMBER	SID NUMBER	CITATION NUMBER		ALIAS (LAST, FIRST, MIDDLE)/AKA					
	SCHOOL/EMPLOYER, ADDRESS AND PHONE #									

REPORTING OFFICER  
Jacob, Anthony 4868

DATE  
10/07/2014

REVIEWED BY  
Hunt, David

Smith, Stacey  
1632 Havana Ave SW  
Wyoming, MI 49509

### Caregiver Monthly Schedule

4/28/2014 - 11/9/2014

06-01-14

Inconsistent

26-13-14

(F)

# Exhibit Type Data

## Sunday

Monday

**Tuesday**

Wednesday

Thursday

Friday

**Saturday**

Date of occurrence  
on complaint by  
Det. Swiercz

1022 Document 1-2 Filed 01/09/2017 Page 1

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Caregiver Monthly Schedule

4/28/2014 - 11/9/2014

Smith, Stacey

1632 Havana Ave SW  
Wyoming, MI 49509

July 2014

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
		1 C 3:00PM-5:00PM (2.00) David's House, -HHA	2	3 C 3:00PM-5:00PM (2.00) David's House, -HHA	4 C 7:00PM-11:00PM (4.00)	5 C 12:00AM-7:00AM (7.00) E
		2 C 3:00PM-5:00PM (2.00) David's House, -HHA	3	4 C 3:00PM-5:00PM (2.00) David's House, -HHA	5 C 7:00PM-11:00PM (4.00)	6 C 12:00AM-7:00AM (7.00) E
		3	4	5 C 3:00PM-5:00PM (2.00) David's House, -HHA	6 C 7:00PM-11:00PM (4.00)	7 C 12:00AM-7:00AM (7.00) E
		4	5	6 S 3:00PM-5:00PM (2.00) David's House, -HHA	7 C 7:00PM-11:00PM (4.00)	8 C 12:00AM-7:00AM (7.00) E
		5	6	7 C 3:00PM-5:00PM (2.00) David's House, -HHA	8 C 7:00PM-11:00PM (4.00)	9 C 12:00AM-7:00AM (7.00) E
		6	7	8 C 3:00PM-5:00PM (2.00) David's House, -HHA	9 C 7:00PM-11:00PM (4.00)	10 C 12:00AM-7:00AM (7.00) E
		7	8	9 C 3:00PM-5:00PM (2.00) David's House, -HHA	10 C 7:00PM-11:00PM (4.00)	11 C 12:00AM-7:00AM (7.00) E
		8	9	10 S 3:00PM-5:00PM (2.00) David's House, -HHA	11 C 7:00PM-11:00PM (4.00)	12 C 12:00AM-7:00AM (7.00) E
		9	10	11 C 3:00PM-5:00PM (2.00) David's House, -HHA	12 C 7:00PM-11:00PM (4.00)	13 C 12:00AM-7:00AM (7.00) E
		10	11	12	1	2

EXHIBIT 7 (F)

10-13-14:04:27PM

616 531 5852

# 3/ 6

Confidential

Individual requested by (10057) Lenny on 10/15/2014 4:24 PM

Confidential Data - Do Not Duplicate - Do Not Leave Unattended - Return to Corporate Office

Smith, Stacey  
1632 Havana Ave SW  
Wyoming, MI 49509

### Caregiver Monthly Schedule

4/28/2014 - 11/9/2014

EXhib (F

**August 2014**

[illegible]

**Confidential**

rp\Schedule\Month\individual requested by (110657) Lenny on 10/15/2014 4:24 PM

Confidential Data - Do Not Duplicate - Do Not Leave Unattended - Return to Corporate Office

Page 5 of 8

Caregiver Monthly Schedule

4/28/2014 - 11/9/2014

Smith, Stacey  
1632 Havana Ave SW  
Wyoming, MI 48309

September 2014

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
	1	2	3	4	5	6
				C 3:00PM-5:00PM (2.00) David's House, -HHA		
		3	10	11	12	13
		C 3:00PM-5:00PM (2.00) David's House, -HHA		C 3:00PM-5:00PM (2.00) David's House, -HHA		
		15	17	18	19	20
		C 3:00PM-5:00PM (2.00) David's House, -HHA				
	22	23	24	25	26	27
		C 3:00PM-5:00PM (2.00) David's House, -HHA		C 3:00PM-5:00PM (2.00) David's House, -HHA		
		30	1	2	3	4
		C 3:00PM-5:00PM (2.00) David's House, -HHA		C 3:00PM-5:00PM (2.00) David's House, -HHA		

Exhibit (F)

Confidential

rsScheduleMonthIndividual requested by (10067)Lenny on 10/15/2014 4:24 PM

Confidential Date - Do Not Duplicate - Do Not Leave Unattended - Return to Corporate Office

Smith, Stacey  
1632 Havana Ave SW  
Wyoming, MI 49509

Caregiver Monthly Schedule

4/28/2014 - 11/9/2014

Exhibit (F)

October 2014						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
20	20	20 G 3:00 PM-5:00 PM (2.00) David's House, -HHA	1	2 G 3:00 PM-5:00 PM (2.00) David's House, -HHA	3	4
21	21	21	2	3	5	6
22	22	22	3	4	6	7
23	23	23	4	5	7	8
24	24	24	5	6	8	9
25	25	25	6	7	9	10
26	26	26	7	8	10	11
27	27	27	8	9	11	12
28	28	28	9	10	12	13
29	29	29	10	11	13	14
30	30	30	11	12	14	15
31	31	31	12	13	15	16

10-15-14; 04:27PM;

616 531 5852

Confidential

Individual requested by (10067)Leamy on 10/15/2014 4:24 PM

Confidential Data - Do Not Duplicate - Do Not Leave Unattended - Return to Corporate Office

## Incident Report

17-19462  
EXhibit (G)

On October 5, 2014, while returning from a Tigers Baseball Game with his brother Kyle Heys, Kevin reported to his brother that his penis was "touched and caressed" by Stacey Smith, PT provider, employed by Health Care Associates, while at David's House Ministries, in his room, on his bed. Kevin is unclear about specific dates and stated that this happened at least three different times.

Kyle contacted his mother, Gwen Heys, who then contacted David's House Ministries to set up a meeting on Tuesday, October 7, 2014. Kyle and Gwen met with Ann Braford, Director of David's House Ministries, Shane Metzger, Director of Operations, and Ruth Bonfiglio, House 3 Manager at David's House, where Kevin resides.

Kyle further spoke with Kevin on October 7, 2014. Kevin reported that "the first time Stacey touched his penis, Stacey asked Kevin" Do You Want Me To Put My Hand In Your Pants?" Kevin stated that Stacey put his hand under Kevin's belt inside his pants and "massaged me down there". Kevin shared that "Stacey also asked about taking him to a hotel". Kevin stated that Stacey wanted to meet his mother and brother.

Admission  
I never said brother

How could I have done this if he had a belt on  
and fastened Give ie.

IN THE CIRCUIT COURT FOR THE COUNTY OF KENT

\*\*\*\*\*

THE PEOPLE OF THE STATE OF MICHIGAN  
vs

CASE: 62A - WYOMING: 14FY3713

**STACEY Rendill SMITH**

OFFENSE: CSC 2<sup>ND</sup> - Mentally Disabled Relationship (2CTS)

PRELIMINARY EXAM: 11/12/2014 at 11:00 AM

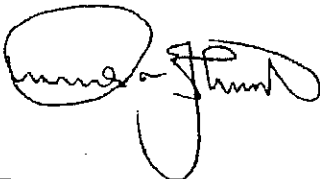
BOND: 10,000 PR - POSTED

ADDRESS: 1632 HAVANA AVE SW, WYOMING MI 49509  
DOB: 3/12/69


**ORDER DENYING REQUEST FOR  
COURT APPOINTED COUNSEL**

In this cause, the defendant has expressed a desire to be represented by counsel and the Court, having reviewed the attached request of the defendant, determines the following:

The said defendant is not indigent and not entitled to a court appointed attorney. The defendant is expected to employ counseling of his choosing or be prepared to represent themselves.

Who is this? →   
\_\_\_\_\_  
Circuit Judge

Date: November 3, 2014

Attest: A True Copy  
  
\_\_\_\_\_



STATE OF MICHIGAN  
IN THE CIRCUIT COURT FOR THE COUNTY OF KENT

Exhibit (0)

THE PEOPLE OF THE STATE OF MICHIGAN

Circuit Court No. ~~14-1011-PR~~

vs

Stacey R. Smith**WAIVER OF CIRCUIT COURT ARRAIGNMENT ON INFORMATION**

1. The undersigned defendant and attorney hereby acknowledge that defendant has received a copy of the information, has read or had it read or explained to the defendant, understands the substance of the charge, and waives Circuit Court arraignment in open court.

2. Defendant (check one):

☒ Pleads not guilty

OR

☐ Stands mute

3. A preliminary examination transcript is requested (check one):

☐ Yes☒ NoDATE: 11/19/14

Defendant's signature

Attorney's signature

Residence Address:

Office Address:

1632 Havana Ave SW  
Wyoming, MI 4950915 Tonia SW #530  
G.R. Mich 05

Telephone:

Telephone:

616 238-6432616 458 3791

NOTE: Arraignments are conducted before the Circuit Court Presiding Judge at 9:00 A.M. each Friday morning, as noticed, for defendants represented by lawyers who have not executed waivers and for defendants not represented by lawyers. If a guilty plea is to be offered, contact should be made with the Prosecutor's Office.



EXHIBIT (P)

JM STATE OF MICHIGAN 62A DISTRICT COURT		BIND OVER/TRANSFER AFTER PRELIMINARY EXAMINATION FELONY Circuit Court ORI: MI-410025J		CASE NO.: DISTRICT: CIRCUIT:	
THE PEOPLE OF THE STATE OF MICHIGAN		Defendant's name and address SMITH, STACEY RENDIL 1632 HAVANA AVENUE SW WYOMING, MI 49509		Victim or complainant KEVIN HENRY HEYS	
Co-defendant(s)				Complaining Witness OFFICER PHILIP SWIERCZ	
				Date: ON OR ABOUT 06/01/2014	
City/Twp./Village WYOMING	County in Michigan KENT	Defendant TCN	Defendant CTN 41 14 012630 99	Defendant SID	Defendant DOB 03/12/1969
Police agency report no. WY1429462	Charge See Complaint	Defendant DLN S530777734189	Location 2387 BANNER DR SW	Maximum Penalty See Complaint	
Reporter/Recorder		Cert. no.		Represented by counsel	
				Bar no.	

## EXAMINATION WAIVER

1. I, the defendant, understand:

a. I have a right to employ an attorney.

b. I may request a court appointed attorney if I am financially unable to employ one.

c. I have a right to a preliminary examination where it must be shown that a crime was committed and probable cause exists to charge me with the crime.

2. I voluntarily waive my right to a preliminary examination and understand that I will be bound over to circuit court on the charges in the complaint and warrant (or as amended).

Defendant attorney

Bar no.

Defendant

## ADULT BIND OVER

☒ 3. Examination has been waived.☐ 4. Examination was held and it was found that probable cause exists to believe both that an offense not cognizable by the district court has been committed and that the defendant committed the offense.☒ 5. The defendant is bound over to circuit court to appear on \_\_\_\_\_ at \_\_\_\_\_ m.  
Date Time☒ on the charge(s) in the complaint.☐ on the amended charge(s) of \_\_\_\_\_

MCL/PACC CODE

6. Bond is set in the amount of \$ 10.000 . Type of bond: PR ☐ Posted

Date

11/19/14

Judge

Bar no.

COPY



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
EXECUTIVE OFFICE  
LANSING

BRIAN CALLEY  
LT. GOVERNOR

December 22, 2016

Ms. Stacey R. Smith  
855 Kalamazoo Ave SE  
Grand Rapids MI 49507

Dear Ms. Smith:

On behalf of Governor Rick Snyder I am responding to your recent letters. While we acknowledge the issues you are experiencing, they do not fall under the jurisdiction of this office as this appears to be a court/probation matter.

Your correspondence received most recently mentions a request for a pardon, please know that under Michigan law the commutation of sentence and pardon process originates within the Michigan Parole Board, Department of Corrections. I suggest that you contact the Board directly at (517) 373-0270 or P.O. Box 30003, Lansing, MI 48909, to express your desire to be considered for a pardon. You may also find the application on-line within the Michigan Department of Corrections website.

Sincerely,

Cheri Arwood  
Executive Administrator  
Legal Division

MR. STACEY R. SMITH  
855 KALAMAZOO AVE SE  
GRAND RAPIDS, MICHIGAN 49507.  
616-350-5709.

MICHIGAN DEPARTMENT OF CORRECTIONS.  
ATTENTION: TO THE MICHIGAN PAROLE BOARD.  
P.O. BOX 30003.  
LANSING, MICHIGAN 48909  
517-373-0270.

REFERENCE: M.D.O.C.: 961806.

Dear M.D.O.C.:

I am requesting that my request for a pardon by the Governor of the State of Michigan be considered and granted. Per the instruction/suggestion of the Governor's office directly, as I have a letter enclosed from his office from Executive Administrator Cheri Arwood. Further enclosures are provided which should show the underlying basis for this request. Please take them into dire consideration as I humbly anticipate the expected reply.

Best regards:

/s/ Mr. Stacey R. Smith  
ENCLOSURES.

THE STATE OF MICHIGAN.  
62A JUDICIAL COURT.

2650 De Hoop Ave SW.  
Wyoming, Michigan 49509.  
616-257-9814.

EXhibit  
(Q)

THE PEOPLE OF THE STATE OF MICHIGAN.

THE HON.: Pablo Cortes.  
CASE NO.: 14FY3713.

V.

} Motion to Stay Proceedings.

Mr. Stacey R. Smith  
1632 Havana Ave SW  
Wyoming, Michigan 49509.  
616-238-6432.

Let it be known that the defendant is respectfully entering a motion to stay proceedings with the knowledge that the defendant has not been able to obtain proper counsel. Also be advises that the defendant is not sure as to the location or time of the Preliminary Examination as to whether it is to take place at 62A at 1PM or the 17<sup>th</sup> Circuit at 11AM. The defendant has a document denying my request for a court appointed attorney and the defendant, as of 11/10/14 submitted proof of defendants indigence and inability to pay for a professional counsel.

The defendant respectfully submits a request to stay this Preliminary Examination until proper counsel has been established.

Thank you and best regards.

NOTARY:

Sworn and subscribed before me in the County of:

\_\_\_\_\_  
County

\_\_\_\_\_  
Date of Notary.

\_\_\_\_\_  
Signature of Notary.

\_\_\_\_\_  
Stamp of Notary.

**EXHIBIT (R)**

Mr. Stacey R. Smith  
1632 Havana Ave SW.  
Wyoming, Michigan 49509.  
616-238-6432.

CASE NO.: 14FY3713.  
HON.: PABLO CORTES.

To 62A District Court.  
2650 De Hoop Ave SW.  
Wyoming, Michigan 49509.  
616-257-9814.

November 10, 2014.

Court Services & the 17<sup>th</sup> Judicial Circuit Court.  
180 Ottawa Ave NW  
Suite No.: 2100.  
Grand Rapids, Michigan 49503.  
616-632-5350.  
616-632-5220.

Reference to: **ORDER DENYING REQUEST FOR A COURT  
APPOINTED ATTORNEY.**

Wednesday November 12, 2014 at 1PM.

This is a letter to contest the order denying a court appointed attorney. I was not allowed time to enter a financial statement to prove my indigence in regards to said case in question. I am currently unemployed as I have been on a medical leave of absence from my primary employer; HOME DEPOT STORE INC. located at 4900 Wilson Ave. Grandville Michigan 49519. 616-257-9559. I am providing the best means of proof of my indigence. 1. a current mortgage statement, a statement of my electric bill, gas bill, water bill, and a current filing for STATE EMERGENCY RELIEF through THE DEPARTMENT OF HUMAN SERVICES. I have not been to work since October 21, 2014 and have been seeking medical attention since that time and have not been cleared to go back to work.

**FINANCIAL STATEMENT:**

**INCOME FOR NOVEMBER 07, 2014: \$388.78 FOR MONTH OF NOVEMBER.**

**EXPENSES:**

**MORTGAGE WELLS FARGO HOME MORTGAGE: \$ 346.00**

**DTE ENERGY (GAS): AS OF NOVEMBER 10, 2014: \$ 455.00**

**CONSUMERS ENERGY (ELEC.) AS OF NOV 10, 2014: \$337.00**

**WATER (CITY OF WYOMING) AS OF NOV 10, 2014: \$258.00**



INTERNET (AT&T) AS OF NOVEMBER 10, 2014: \$79.00

---

TOTAL EXPENSES: \$1475.00

MINUS INCOME FOR NOVEMBER: -(\$388.00)

---

DEFICIT -(\$1087.00).

I provided as many documents as I am able to confirm my indigence in the hopes that this information is respectfully submitted in the hopes for consideration for the approval for a court appointed attorney.

Respectfully submitted:

/s/ Mr. Stacey R. Smith.

Mr. Stacey R. Smith  
855 Kalamazoo Ave SE  
Grand Rapids, Michigan 49507.  
616-350-5709.

**Judicial Tenure Commission**

3034 West Grand Blvd.  
Suite 8-450  
Detroit, MI 48202  
(313) 875-5110.V.  
(313) 875-5154 F.

12/29/2016.

REFERENCE: JTC CASE NO.: 2016-22385.

ATTENTION: Interim Executive Director and General Counsel Glenn Page and Vice Chair  
Pablo Cortes.

Dear Interim Director and Vice Chair:

In response to your results to my request for an investigation in above case number, I would like to inquire on several things. You stated that this commission is limited with the commission's jurisdiction in determining misconduct as defined by law. You also have determined no basis for misconduct with what I have submitted which would bring into question first if you even reviewed the police interview? Have you received and consider the Complaint for Writ of Mandamus? And are you protecting your own member the Vice Chair in this matter. This matter is also cultivating the interest of the news media as I have no interest in exposing myself in this matter though the interest remains by the media for it to go public. From November 29, 2016 to December 16, 2016 allows me to conclude that only 14 days were spent on deciding your jurisdiction on this matter; to where I am sure that it should have taken longer than two weeks to decide on if there were grounds for misconduct. On your site, you indicated That your jurisdiction falls under, "improper communication with only one side of the parties in a case", yet you do not detect that occurrence in what I submitted when I stated that the determination was based on an unreasonable determination of facts that the judge should have detected had he review the police interview and detected me denying the charges three times and detected coercion by Detective Swierez in comparison to the falsified Affidavit for Probable Cause for Felony Complaint. This commission could not detect the judge's failure to find prosecution in violation of the fabricated charge of MCL 750.520C (1) (H) as I maintained that the victim and I having a friendship and not a relationship and the judge allowing this fabrication to be allowed in court as, your website states as an, "improper off the bench conduct", which I believe the judge showing favor to prosecution.

I ask that the commission re-consider their lack of jurisdiction and ability of intervention and re-examine their jurisdiction. The Prima Facie in this matter is the infringement upon my civil liberty which is protected by the Michigan Constitution were collectively the fact that article 17 was violated and is being overlooked as I mention in the letter I sent stating that this commission along with everyone else would ignore as I predicted:

Jurisdiction is also conferred by MCR 3.305 (A) (1), MCR 3.303 (A), MCR 3.303 (A) (2), and MCR 3.303 (C) 1-7, MCR 3.303 (F) (1) (a), MCR 3.303 (F) (2). Jurisdiction is proper as the protected status of Article § 17 of the Michigan Constitution of 1963: **(PRIMA FACIE)**

FALSIFIED SELF-INCRIMINATION BY DETECTIVE SWIERCSZ WITH THE AFFIDAVIT FOR PROBABLE CAUSE FOR FELONY COMPLAINT 62A Judicial District Court:

§ 17 Self-incrimination; due process of law; fair treatment at investigations. Sec. 17. No person shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property, without due process of law. The right of all individuals, firms, corporations and voluntary associations to fair and just treatment in the course of legislative and executive investigations and hearings shall not be infringed. History: Const. 1963, Art. I, § 17, Eff. Jan. 1, 1964. Former constitution: See Const. 1908, Art. II, § 16.

Respectfully submitted:

/s/ Mr. Stacey R. Smith

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\(2016\)](#)
[Commission Meetings](#)
[What the Commission CAN  
Do](#)
[What the Commission  
CANNOT Do](#)
[Succession Chart of  
Commissioners](#)
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## What the Commission CAN Do

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### Authority

The Judicial Tenure Commission is the independent state agency responsible for investigating complaints of judicial misconduct and judicial incapacity, and for recommending discipline of judges by the Michigan Supreme Court. Its jurisdiction includes all active judicial officers, as that term is defined in the Michigan Court Rules.

The Commission's authority over judicial officers extends beyond the person's tenure in office if one of two requirements is met. First, if a Request for Investigation is filed while the individual holds the judicial position, the Commission retains jurisdiction even after the person leaves office. Second, if the conduct in question is related to a person's judicial office, the Commission has jurisdiction over the individual regardless of when the Request for Investigation is filed.

### Judicial Misconduct

The Commission's authority is limited to investigating alleged judicial misconduct and, if warranted, recommending the imposition of discipline by the Michigan Supreme Court. Judicial misconduct usually involves conduct in conflict with the standards set forth in the Code of Judicial Conduct. Some examples of judicial misconduct include intemperate courtroom conduct (such as yelling, rudeness, or profanity), improper communication with only one of the parties in a case, failure to disqualify in cases in which the judge has or appears to have a financial or personal interest in the outcome, delay in performing judicial duties, and public comment about the pending case. Judicial misconduct also may involve improper off-the-bench conduct such as driving under the influence of alcohol or even soliciting money on behalf of charitable organizations. The allegations made in each grievance are considered on a case-by-case basis in accordance with the Code of Judicial Conduct.

### Additional Resources

Please refer to the "Complaint Process," "FAQs," and "Legal Authority" tabs on the Home Page for more detailed information on the Commission's jurisdiction and procedures.

### OUR ADDRESS/PHONE

**Judicial Tenure Commission**  
3034 West Grand Blvd.  
Suite 8-450  
Detroit, MI 48202  
(313) 875-5110

### FIND US



### LINKS OF INTEREST

- [Attorney Grievances](#)
- [State Bar of Michigan](#)
- [Attorney Discipline](#)
- [U.S. Sixth Circuit](#)
- [Michigan Courts](#)
- [State of Michigan](#)

## MICHIGAN CODE OF JUDICIAL CONDUCT

## Canon 1

## A Judge Should Uphold the Integrity and Independence of the Judiciary

An independent and honorable judiciary is indispensable to justice in our society. A judge should participate in establishing, maintaining, and enforcing, and should personally observe, high standards of conduct so that the integrity and independence of the judiciary may be preserved. A judge should always be aware that the judicial system is for the benefit of the litigant and the public, not the judiciary. The provisions of this code should be construed and applied to further those objectives.

## Canon 2

## A Judge Should Avoid Impropriety and the Appearance of Impropriety in All Activities

A. Public confidence in the judiciary is eroded by irresponsible or improper conduct by judges. A judge must avoid all impropriety and appearance of impropriety. A judge must expect to be the subject of constant public scrutiny. A judge must therefore accept restrictions on conduct that might be viewed as burdensome by the ordinary citizen and should do so freely and willingly.

B. A judge should respect and observe the law. At all times, the conduct and manner of a judge should promote public confidence in the integrity and impartiality of the judiciary. Without regard to a person's race, gender, or other protected personal characteristic, a judge should treat every person fairly, with courtesy and respect.

C. A judge should not allow family, social, or other relationships to influence judicial conduct or judgment. A judge should not use the prestige of office to advance personal business interests or those of others, but participation in activities allowed in Canon 4 is not a violation of this principle.

D. A judge should not appear as a witness in a court proceeding unless subpoenaed.

E. A judge may respond to requests for personal references.

F. A judge should not allow activity as a member of an organization to cast doubt on the judge's ability to perform the function of the office in a manner consistent with the Michigan Code of Judicial Conduct, the laws of this state, and the Michigan and United States Constitutions. A judge should be particularly cautious with regard to membership activities that discriminate, or appear to discriminate, on the basis of race, gender, or other protected personal characteristic. Nothing in this paragraph should be interpreted to diminish a judge's right to the free exercise of religion.

- Are You Protecting Pablo (45 of 283)  
- Are You in receipt of the  
complaint for writ of mandamus

Judge stating "I don't care, Change  
him with gross indecency!"

DOES this sound respectful?

→ Judge was observed at my  
job (in the camera complaint  
along with the Prosecutor  
doing the same, Keith Bramble

→ Pablo Cortes - Judicial Tenure  
Commission's Vice Chair?



(d) A judge may, with the consent of the parties, confer separately with the parties and their lawyers in an effort to mediate or settle matters pending before the judge.

(e) A judge may initiate or consider any ex parte communications when expressly authorized by law to do so.

(5) A judge should dispose promptly of the business of the court.

(6) A judge should abstain from public comment about a pending or impending proceeding in any court, and should require a similar abstention on the part of court personnel subject to the judge's direction and control. This subsection does not prohibit a judge from making public statements in the course of official duties or from explaining for public information the procedures of the court or the judge's holdings or actions.

(7) A judge should prohibit broadcasting, televising, recording, or taking of photographs in or out of the courtroom during sessions of court or recesses between sessions except as authorized by the Supreme Court.

(8) A judge may properly intervene in a trial of a case to promote expedition, and prevent unnecessary waste of time, or to clear up some obscurity, but the judge should bear in mind that undue interference, impatience, or participation in the examination of witnesses, or a severe attitude on the judge's part toward witnesses, especially those who are excited or terrified by the unusual circumstances of a trial, may tend to prevent the proper presentation of the cause, or the ascertainment of truth in respect thereto.

Conversation between the judge and counsel in court is often necessary, but the judge should be studious to avoid controversies that are apt to obscure the merits of the dispute between litigants and lead to its unjust disposition. In addressing counsel, litigants, or witnesses, the judge should avoid a controversial manner or tone.

A judge should avoid interruptions of counsel in their arguments except to clarify their positions, and should not be tempted to the unnecessary display of learning or a premature judgment.

(9) A judge should adopt the usual and accepted methods of doing justice; avoid the imposition of humiliating acts or discipline, not authorized by law in sentencing and endeavor to conform to a reasonable standard of punishment and not seek popularity or publicity either by exceptional severity or undue leniency.

(10) Without regard to a person's race, gender, or other protected personal characteristic, a judge should treat every person fairly, with courtesy and respect. To the extent possible, a judge should require staff, court officials, and others who are subject to the judge's direction and control to provide such fair, courteous, and respectful treatment to persons who have contact with the court.

#### B. Administrative Responsibilities:

Judge Both going along with prosecution with the knowledge of the fabricated charge and the detective's deceptive methodology.

# Transmission Report

Date/Time  
Local ID 1

12-29-2016  
123

15:07:54

Transmit Header Text  
Local Name 1

Fax

This document : Confirmed  
(reduced sample and details below)  
Document size : 8.5"x11"

Mr. Stacey R. Smith  
855 Kalamazoo Ave SE  
Grand Rapids, Michigan 49507.  
616-350-5709.

Judicial Tenure Commission  
3034 West Grand Blvd.  
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(313) 875-5110 V.  
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12/29/2016.

REFERENCE: JTC CASE NO.: 2016-22385.

ATTENTION: Interim Executive Director and General Counsel Glenn Page and Vice Chair  
Pablo Cortes.

Dear Interim Director and Vice Chair:

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Total Pages Scanned : 10

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No.	Job	Remote Station	Start Time	Duration	Pages	Line	Mode	Job Type	Results
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## Abbreviations:

HS: Host send  
HR: Host receive  
WS: Waiting send

PL: Polled local  
PR: Polled remote  
MS: Mailbox save

MP: Mailbox print  
RP: Report  
FF: Fax Forward

CP: Completed  
FA: Fail  
TU: Terminated by user

TS: Terminated by system  
G3: Group 3  
EC: Error Correct

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

STACEY R. SMITH,

Plaintiff,

v.

Case No. 1:16-cv-1381  
Hon. Paul L. Maloney

GEORGE S. BUTH,

Defendant.

---

**ORDER**

This matter is now before the Court on *pro se* plaintiff's "letter motion" for appointment of counsel (docket no. 7). "Appointment of counsel in a civil case is not a constitutional right. It is a privilege that is justified only by exceptional circumstances." *Lavado v. Keohane*, 992 F.2d 601, 605-06 (6th Cir. 1993). Appointment of counsel is within the court's discretion, *Glover v. Johnson*, 75 F.3d 264, 268 (6th Cir. 1996). In determining whether exceptional circumstances exist, the court should consider the type of case, the plaintiff's ability to represent himself, and the complexity of the factual and legal issues involved. *Lavado*, 992 F.2d at 606. Plaintiff has not presented any extraordinary circumstances that warrant the appointment of counsel in this matter. Accordingly, plaintiff's motion for appointment of counsel (docket no. 7) is **DENIED**.

**IT IS SO ORDERED.**

Dated: January 4, 2017

/s/ Ray Kent

RAY KENT

United States Magistrate Judge

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

STACEY R. SMITH,

Plaintiff,

v.

Case No. 1:16-cv-1381

Hon. Paul L. Maloney

GEORGE S. BUTH,

Defendant.

---

**REPORT AND RECOMMENDATION**

This is a civil action brought by a *pro se* plaintiff, who was allowed to file the present action *in forma pauperis* pursuant to § 1915. This action is subject to judicial screening under 28 U.S.C. § 1915(e)(2)(B), which provides that the Court “shall dismiss” actions brought *in forma pauperis* “at any time if the court determines that . . . the action . . . (ii) fails to state a claim on which relief may be granted; or (iii) seeks monetary relief against a defendant who is immune from such relief.” For the reasons discussed below, plaintiff’s “Complaint of judicial misconduct or disability” (docket no. 1) should be dismissed.

**I. Discussion**

In determining whether a complaint should be dismissed for failure to state a claim under § 1915(e)(2), the Court applies the dismissal standard articulated in *Ashcroft v. Iqbal*, 556 U.S. 662 (2009) and *Bell Atlantic Corporation v. Twombly*, 550 U.S. 544 (2007). *See Hill v. Lappin*, 630 F.3d 468, 470-71 (6th Cir. 2010).

To survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to “state a claim to relief that is plausible on its face.” A

Second, plaintiff has failed to state a claim against defendant. This Court does not discipline state court judges for alleged judicial misconduct. “Federal courts do not supervise or monitor the state courts or state court judges.” *Morris v. Tennessee*, No. 06-2007-M1/P, 2006 WL 1579575 at \*2 (W.D. Tenn. May 31, 2006). In this regard,

Federal courts have no authority to issue writs of mandamus to direct state officials to conform their conduct to state law. *Pennhurst State School & Hospital v. Halderman*, 465 U.S. 89 (1984); *Haggard v. Tennessee*, 421 F.2d 1384 (6th Cir. 1970).

*MacLeod v. Pavlich*, No. 2:16-CV-240, 2016 WL 6775474 at \*2 (W.D. Mich. Nov. 16, 2016).

Accordingly, plaintiff’s complaint should be dismissed for failure to state a claim on which relief may be granted pursuant to § 1915(e)(2)(B)(ii).

Third, plaintiff’s complaint is barred because judges are entitled to absolute judicial immunity from suits arising out of the performance of their judicial functions. *Mireles v. Waco*, 502 U.S. 9, 9-11 (1991); *Pierson v. Ray*, 386 U.S. 547, 553-54 (1967); *Brookings v. Chunk*, 389 F.3d 614, 617 (6th Cir. 2004). “A judge is absolutely immune from liability for his judicial acts even if his exercise of authority is flawed by the commission of grave procedural errors.” *Stump v. Sparkman*, 435 U.S. 349, 359 (1978). A judge will not be deprived of immunity because the action he took was in error or exceeded his authority. *Mireles*, 502 U.S. at 12-13. Judicial immunity applies “however erroneous the act may have been, and however injurious in its consequences it may have proved to the plaintiff.” *Cleavinger v. Saxner*, 474 U.S. 193, 199-200 (1985) (quoting *Bradley v. Fisher*, 80 U.S. (13 Wall.) 335, 347 (1872)). As the Supreme Court explained in *Forrester v. White*, 484 U.S. 219 (1988):

If judges were personally liable for erroneous decisions, the resulting avalanche of suits, most of them frivolous but vexatious, would provide powerful incentives for



## II. RECOMMENDATION

For the foregoing reasons, I respectfully recommend that plaintiff's action be **DISMISSED**.

Dated: January 4, 2017

/s/ Ray Kent

RAY KENT

United States Magistrate Judge

ANY OBJECTIONS to this Report and Recommendation must be served and filed with the Clerk of the Court within ten (10) days after service of the report. All objections and responses to objections are governed by W.D. Mich. LCivR 72.3(b). Failure to serve and file written objections within the specified time waives the right to appeal the District Court's order. *Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

IN THE UNITED STATES OF AMERICA.  
U.S. DISTRICT COURT.  
WESTERN DISTRICT OF THE STATE OF MICHIGAN.  
IN THE COUNTY OF KENT.

CASE NO.: 1411012-FH  
BEFORE THE HONORABLE: JUDGE BUTH.  
MCL 750.520E  
AT A SESSION IN THE 17<sup>TH</sup> JUDICIAL CIRCUIT COURT

FINAL DRAFT: DISREGARD ALL OTHER CORRESPONDENCE WITHOUT THIS MARK.

PEOPLE OF THE UNITED STATES AND THE STATE OF MICHIGAN:

MR. STACEY R. SMITH  
855 KALAMAZOO AVE SE  
GRAND RAPIDS, MICHIGAN 49507.  
616-350-5709.  
(PETITIONER PRO SE INFORMA PAUPERIS).

RE-ADDRESSED (REVISED).  
CASE NO.: 1:16-cv-01381.  
HON.: PAUL L. MALONEY.  
REFERRED TO: HON. RAY KENT.

PLAINTIFF,

MICHWORKS  
121 Franklin Ave Grand Rapids, MI 49507.

VS.

}

MOTION FOR CLARITY AND  
AUTHORIZATION TO UTILIZE  
COMPUTER FACILITIES AT  
MICHWORKS ON FRANKLIN ST.  
TO SEEK EMPLOYMENT.  
AND AFFIRMATION AND DEFENSE.

COMPLAINT FOR JUDICIAL MISCONDUCT OR DISABILITY.

GEORGE S. BUTH P-11479 (PRESIDING JUDGE).  
180 OTTAWA AVE NW  
SUITE NO.: 12200A.  
GRAND RAPIDS, MICHIGAN 49503.  
616-632-5020.  
(RESPONDENT).

DEFENDANT,

RESUBMITTED AND REVISED 01/03/2017.

---

NOW ENTERS THE PLAINTIFF, with a motion for clarity and a request to seek employment at the computer facility at the Michworks facility on Franklin Ave to seek employment. The reason I have extended and attempted to reach out to the federal courts, is because of the added confusion which has been brought on by the decision handed down by Federal Judge Robert Cleland on the east side of this state. After my exhausting attempt to remain in compliance, I am in discovery of things which I cannot understand and am not able to comply with in regards to the conditions that I must follow. After inquiring about whether or not I am able to seek employment at the Michworks facility from my probation officer, a one Mr. Steven Meyers, I was given permission NOT WRITTEN AUTHORIZATION to seek employment however I also reviewed the stipulations of my probation and discovered that:

1. My conditions state that I may (NOT) utilize the internet both DIRECTLY OR INDIRECTLY and by permission of the probation officer would be INDIRECTLY, and would be a violation and to prove as such, to be given permission and not WRITTEN AUTHORIZATION would remain in line with me violating the conditions of my probation.
2. To justify this for example. Not that my probation officer would, but if he were to at any time deny PERMISSION to utilize the facility and I do not possess written proof, the probation officer could then violate me and I would have no way of proving the PERMISSION NOT AUTHORIZATION.
3. I inquired with my own defense counsel and Mr. John R. Beason stated that there was nothing else that he could do which compels me and justifies me to request clarity through this motion on a federal level as well as a state level.
4. I am also in receipt, after reviewing the case on 11/14/2016, that there was information in the file that I discovered was false and not accurate when I read the Affidavit of Probable Cause For Felony Complaints from the 62A District court from a one Detective Swierz from the Wyoming Police Department stating that I admitted to the elements that he stipulated in the affidavit. THIS IS NOT TRUE AND HE FALSIFIED THIS DOCUMENT TO PROMPT THE ARREST AND CONVICTION THAT I AM CURRENTLY UNDER. I stated to my defense counsel and he maintains that there is nothing that he can do.
5. The detective stated on the affidavit that I admitted to engaging in the act of sexual contact with a mentally disable person being in a position of authority:
6. My affirmation and Defense response to this is DENIED. I never had a chance or opportunity to defend myself as my own defense counsel went along with prosecution and never challenge the prosecutor AT ALL.
7. Where the detective stated that I admitted to kissing said victim in question and admitted to a word that is not even legible on the affidavit but may infer touching the victims penis:
8. My affirmation and defense response to this is DENIED.
9. After discovery of this document to which I never seen or had knowledge of before or during the case or hearing, it clearly reveals to me that Mr. Joshua Kuiper along with

especially Detective Swiercz set out on a campaign to entrap me and destroy my life with *malice*. Detective Swiercz deceived me or used a deceptive practice in an effort to find anything that he could use to convict me. Detective Swiercz crossed out the top of the statement document from W.P.D. Creating the illusion that I was not under arrest were he deliberately used a deceptive practice to coerce me into a false self-incriminating statement that he then immediately constructed said felony probable cause complaint for my arrest. He also implied that there was a video caption from a nanny cam but was not produced in defense counsels Discovery Motion.

I continue to maintain, THAT I DID NOT ADMIT TO THE CHARGES AS HE STATED IN THE COMPLAINT. DET. SWIERCZ FALSIFIED THIS DOCUMENT. I DID NOT ADMIT TO THE CHARGES DURING THE PLEA. WHEN THE JUDGE ASKED ME IF I WAS GUILTY OF THE EXACT SAID CHARGE AND I PAUSED, LOOKED AT MY DEFENSE COUNSEL AND MR. BEASON MODIFIED THE QUESTION TO WHERE THE JUDGE THEN ASK IN A DIFFERENT MANNER WHICH DID NOT PERTAIN TO THE EXACT CHARGE, AND THEN PUSHED THE CASE THROUGH. THIS ALL SEEMED SET UP EVEN WITH THE JUDGE IN COOPERATION.

Through all of this I would like to request an investigation for prosecutorial and judicial misconduct.

-I ALSO CHALLENGE OF ALL THE WITNESSES THAT DETECTIVE SWIERCZ COMILED TOGETHER TESTIFY THAT ANY OF THE WITNESSES (ACTUALLY WITNESSED ME COMMIT SAID OFFENSES IN QUESTION?)

-VICTIM INDICATED IN THE STATEMENT TAKEN BY DETETIVE SWIERCZ STATING, "THAT HE WAS NOT HURT FROM SAID INCIDENT."

-ALSO THE OTHER CLARITY TO WHICH I SEEK IS THE UNDERSTANDING WHY I AM PROHIBITED FROM USING THE INTERNET WHEN MY CHARGE HAD NOTHING TO DO WITH THE INTERNET?

-ALSO MY CHARGE DID NOT INVOLVE CHILDREN THOUGH I WAS SUBJECTED TO THE SCHOOL SAFETY ZONE RESTRICTION AND CAUSING ME TO LOSE MY HOME?

-I HAVE CONGREGATED AROUND OTHER INDIVIDUALS UNDER S.O.R.A. , (ALL WHITE) INDIVIDUALS AND I AM IN RECEIPT OF INFORMATION THAT THEY ARE NOT UNDER THESE REQUIREMENTS WITH THE KNOWLEDGE THAT THEIR OFFENSE DID INVOLVE CHILDREN, YET THEY HAVE ADMITTED TO GOING TO PARKS, USING THE INTERNET, SMARTPHONES, ALL THE WAY UP TO CARRYING A FIRE ARM TO WORK? WHY ARE THESE INDIVIDUALS ALLOWED TO SUPERCEDE S.O.R.A?

After all of this, I am now faced with the struggle of finding a job with no real way to seek employment when every employer requires the internet. I lost my home because of the school safety zone and after consulting with a post-conviction attorney, Nancy Ballast, she only recommended a letter to the City Attorney to ask if he/she would be willing to provide a letter not enforcing the school safety zone, to which I am aware would not have worked even if the City

Attorney provided the letter. These are some examples of the difficulties that The MSP Director and State Senators have created for individuals now confined to S.O.R.A.

I respectfully submit this request to please further advise with order enclosed.

Respectfully submitted:

/s/ Mr. Stacey R. Smith.

Post Script: EXHIBITS (Q) and (R), I was even denied court appointed counsel when I proved my indigence.

**NOTARY AND PROOF OF SERVICE.**

**MOTION FOR AUTHORIZATION. COMPLAINT FOR JUDICIAL MISCONDUCT.**

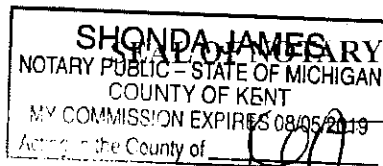
**ATTENTION NOTARY: SIGNATURE OF MR. STACEY R. SMITH ONLY.**

SUBSCRIBED AND SWORN BEFORE ME THIS 4th DAY OF January 2017

IN THE COUNTY OF:

Kent  
COUNTY

[Signature]  
SIGNATURE OF NOTARY



STAMP OF NOTARY

MY COMMISSION EXPIRES.

[Signature]  
SIGNATURE OF MR. STACEY R. SMITH ONLY.

**PROOF OF SERVICE.**

I certify under the penalty of perjury of the State of Michigan, that I mailed a true copy of this document to the addresses above on this 4th day of January 2017 A.D. by US first class mail.



IN THE UNITED STATES OF AMERICA.  
U.S. DISTRICT COURT.  
WESTERN DISTRICT OF THE STATE OF MICHIGAN.  
IN THE COUNTY OF KENT.

CASE NO.: 1411012-FH  
BEFORE THE HONORABLE: JUDGE BUTH.  
MCL 750.520E  
AT A SESSION IN THE 17<sup>TH</sup> JUDICIAL CIRCUIT COURT

FINAL DRAFT: DISREGARD ALL OTHER CORRESPONDENCE WITHOUT THIS MARK.

PEOPLE OF THE UNITED STATES AND THE STATE OF MICHIGAN:

MR. STACEY R. SMITH  
855 KALAMAZOO AVE SE  
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616-350-5709.  
(PETITIONER PRO SE INFORMA PAUPERIS).

RE-ADDRESSED (REVISED).  
CASE NO.: 1:16-cv-01381.  
HON.: PAUL L. MALONEY.  
REFERRED TO: HON. RAY KENT.

PLAINTIFF,

VS.

} SUPPLEMENTAL BRIEF IN SUPPORT  
OF COUNTER-COMPLAINT.

COMPLAINT FOR JUDICIAL MISCONDUCT OR DISABILITY.

GEORGE S. BUTH P-11479 (PRESIDING JUDGE).  
180 OTTAWA AVE NW  
SUITE NO.: 12200A.  
GRAND RAPIDS, MICHIGAN 49503.  
616-632-5020.  
(RESPONDENT).

DEFENDANT,

RESUBMITTED AND REVISED 01/03/2017.

---

NOW ENTERS THE PLAINTIFF, to respectfully submit or file a supplemental brief in support of counter-complaint in an effort to provide the necessary information to which I feel should be taken into dire consideration while in discovery of certain information that should prove the intent of coercion and entrapment by practically all the individuals who were involved in this case.

I AM ALSO ATTEMPTING TO CONTACT MICHIGAN STATE TROOPER ANTHONY MAE WHO MAY POSSIBLY POSE AS A WITNESS IN PROVIDING AND IMPACT CHARACTER STATEMENT IN REGARDS TO MY CHARACTER AS HE KNOWS ME PERSONALLY.

1. Detective Swiercz knew I resided in a school safety zone which motivated him to pursue this matter.

2. The detective completely ignored my side of the story, nor was it taken into consideration. I was the one, for example, that insisted on speaking with the victim's mother before I was to go out with the victim at the victims request. Detective Swiercz stated that the victim suggested this. This is false. In the video interview I stated that I insisted that someone get involved before we go out. THIS ALONE SHOULD HAVE CAST DOUBT.

3. In regards to the Felony Complaint, IF YOU WERE TO NOTICE THAT THE DATE OF OCCURENCE DET SWIERCZ PUT ON THE COMPLAINT WAS 04/01/14 AND THEN HE DATED IT FOR 06/01/14. BE ADVISE YOUR HONOR, I DID NOT START THE DAVID'S HOUSE UNTIL 06/13/14 WHICH WAS MY ORIENTATION DATE. THIS IS INCONSISTENT. HE ALSO STATED THAT I WAS THERE ON 06/01/14 AT 18:01 OR 6PM. I NEVER WORKED A SHIFT PASSED 5PM. THIS IS ALSO INCONSISTENT AND MY DEFENSE COUNSEL WAS AWARE AND JUST BRUSHED IT ASIDE WITH OUT CHALLENGING IT. (PLEASE REFER TO WORK SCHEDULE ENCLOSED.)

4. THE VICTIM ALSO WORE A DIAPER AT ALL TIMES ALONG WITH THE CATHETER WHICH MAKES IT IMPOSSIBLE FOR ME TO COMMIT SAID OFFENSE. (AND THE VICTIM HAD A BELT ON AT THE TIME AS WELL).

5. Detective Swiercz also lied when he indicated that he was not aware of my current working status. Not only was I employed at Health Care Associates, I was also employed at Home Depot in Grandville, Michigan were he called me on my cell phone to inform me that I was under arrest and that if I did not turn myself in, that he would come out there and arrest me on the sales floor.

6. By the detective lying about this, SHOULD ALSO CAST DOUBT.

7. Collectively, this all should display coercion and entrapment and should be recognized as a gross violation of DUE PROCESS:

(A.) By being denied proper counsel and being denied court appointed counsel.

(B.) Defense counsel stating, "You know you will have to register as a

sex offender", which clearly displays his intent to go along with prosecution. This was before the case even began.

(C.) In the minutes of the police interview, I denied the occurrence 3 times. And would like to list the minutes in detail for direct reference as I have enclosed the video for review.

**ITEMIZATION OF DETAILS IN POLICE INTERVIEW:**

**MINUTES:**

**19:45 – DENIED ALLEGATIONS.**

**20:58 - DETECTIVE AFFIRMING VICTIM'S COGNITION.**

**22:50 – POLICY (NO).**

**25:10 – CATHETER.**

**25:45 – COGNITION.**

**25:35 – DETECTIVE STATES HE WILL BE RIGHT BACK AND RETURNS WITH BLANK DVD IN AN EFFORT TO COMPOUND COERCION AND ENTRAPMENT.**

**33:20 – DVD PLACED ON DESK.**

**33:48 – ACT OF COERCION AND ENTRAPMENT.**

**35:54 – VICTIM STATES HE WAS NOT APPAULED BY THIS WHICH INFERES THAT SOMEONE ELSE WAS IMPLYING THAT THE ALLEGED ACT WAS UNWANTED. (VICTIMS BROTHER KYLE).**

**39:09 – HE IMPLIED TOUCHING.**

**41:35 – SECOND DENIAL TO ALLEGED CHARGES.**

**41:58 – I IMPLIED CHEEK TO CHEEK.**

**42:50 – I STATE THAT THE VICTIM WAS THE PERSISTANT INITIANT.**

**43:46 – THE SAME AS MINUTE 42:50 VICTIM WAS PERSISTANT INITIANT.**

**45:53 – I DID NOT BRING THIS UP.**

**EXHIBIT (N) 49:50 – I IDENTIFIED THE INCIDENT AS A FRIENDSHIP NOT RELATIONSHIP. THE DETECTIVE AND PROSECUTOR USED THIS TO MISCONSTRUE THIS TO MAKE IT APPEAR AS A RELATIONSHIP TO FALL UNDER MCL 750.520 C (1) (H).**

**48:45 – DETECTIVE SWIERCZ USING MISLEADING STATEMENTS IN AN EFFORT TO COERCE AND ENTRAP.**

**50:35 – CHECKING CATHETER.**

**52:03 – THE DETECTIVE STATING THAT THERE WAS A NANNY CAM WHICH PROMPTED THE DISCOVERY MOTION BY DEFENSE COUNSEL AND WAS NOT PRODUCED BY PROSECUTION.**

**53:33 – DETECTIVE NOT BEING TRUTHFUL BY GIVING ME THE IMPRESSION THAT PROSECUTION WOULD DECIDE THE CHARGES AS HE WAS THE ONE I DISCOVERED FILING THE FELONY PROBABLE CAUSE COMPLAINT WHICH TRIGGERED ARREST AND CONVICTION. (ENTRAPMENT).**

**1:01:10 – 3<sup>RD</sup> DENIAL OF ALLEGED CHARGES.**

**1:04:40 – MISCONSTRUED COERCION.**

In summary, your Honor, I denied the charges 3 times on minutes 19:45, 41:35, and 1:01:10 and coercion was used by Detective Swiercz on minutes 33:48, 37:57, and 1:04:40.

Also your Honor, while the case was in progress, I witness Detective Swiercz at my job at Uhaul lurking around and I called my defense counsel to see why he was there and never found out why, I had Prosecutor Kevin Bramble P-38380, come through my lane at Sam's Club with a smirk on his face. I said nothing and rang up his items to get him out of the lane, and also Judge Buth P-11479 who also paid a visit at Sam's Club at a different time as Kevin Bramble. These are some of the things I had to endure all through and after the proceedings.

I seek complete and total relief you Honor if it so convinces this honorable court.

Thank you and best regards:

/s/ Mr. Stacey R. Smith

## NOTARY AND PROOF OF SERVICE.

## SUPPLEMENTAL BRIEF IN SUPPOURT OF COUNTER-COMPLAINT.

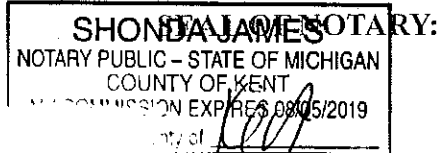
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ATTENTION NOTARY: SIGNATURE OF MR. STACEY R. SMITH ONLY.

---

SUBSCRIBED AND SWORN BEFORE ME THIS 4<sup>th</sup> DAY OF January 2017

IN THE COUNTY OF:

Kent, [Signature]  
COUNTY SIGNATURE OF NOTARY

STAMP OF NOTARY

MY COMMISSION EXPIRES.

[Signature]  
SIGNATURE OF MR. STACEY R. SMITH ONLY.

## PROOF OF SERVICE.

I certify under the penalty of perjury of the State of Michigan, that I mailed a true copy of this document to the addresses above on this 4<sup>th</sup> day of January 2017 A.D. by US first class mail.



Judicial Council of the 6TH Circuit**COMPLAINT OF JUDICIAL MISCONDUCT OR DISABILITY**

To begin the complaint process, complete this form and prepare the brief statement of facts described in item 5 (below). The RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS, adopted by the Judicial Conference of the United States, contain information on what to include in a complaint (Rule 6), where to file a complaint (Rule 7), and other important matters. The rules are available in federal court clerks' offices, on individual federal courts' Web sites, and on [www.uscourts.gov](http://www.uscourts.gov).

Your complaint (this form and the statement of facts) should be typewritten and must be legible. For the number of copies to file, consult the local rules or clerk's office of the court in which your complaint is required to be filed. Enclose each copy of the complaint in an envelope marked "COMPLAINT OF MISCONDUCT" or "COMPLAINT OF DISABILITY" and submit it to the appropriate clerk of court. **Do not put the name of any judge on the envelope.**

1. Name of Complainant: MR. STACEY R. SMITH  
 Contact Address: 855 KALAMAZOO AVE SE  
GRAND RAPIDS, MICHIGA 49507  
 Daytime telephone: ( 616 ) 350-5709
  
2. Name(s) of Judge(s): THE HONORABLE: GEORGE S. BUTH P-11479.  
 Court: 17TH JUDICIAL CIRCUIT COURT.
  
3. Does this complaint concern the behavior of the judge(s) in a particular lawsuit or lawsuits?  
☒ Yes ☐ No  
 If "yes," give the following information about each lawsuit:  
 Court: 1411012-FH  
 Case Number: 1411012-FH  
 Docket number of any appeal to the \_\_\_\_\_ Circuit: \_\_\_\_\_  
 Are (were) you a party or lawyer in the lawsuit?  
☒ Party ☐ Lawyer ☐ Neither

If you are (were) a party and have (had) a lawyer, give the lawyer's name, address, and telephone number:

MR. JOHN R. BEASON P-34095. (DEFENSE COUNSEL)

15 IONIA AVE NW GRAND RAPIDS, MICHIGAN 49503

616-458-3791

4. Have you filed any lawsuits against the judge?

☒ Yes

☐ No

If "yes," give the following information about each such lawsuit:

Court: U.S. DISTRICT COURT WESTERN DISTRICT

Case Number: 1:16-CV-1381

Present status of lawsuit: DENIED BY MAGISTRATE JUDGE RAY KENT

Name, address, and telephone number of your lawyer for the lawsuit against the judge:

VIOLATION OF DUE PROCESS PURSUANT TO

ARTICLE 17 OF THE MICHIGAN CONSTITUTION.

N/A

Court to which any appeal has been taken in the lawsuit against the judge:

U.S. AND MICHIGAN COURT OF APPEALS

Docket number of the appeal: N/A

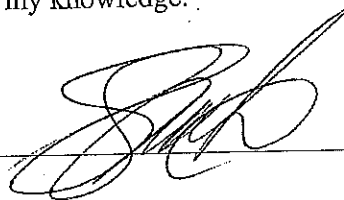
Present status of the appeal: N/A

5. **Brief Statement of Facts.** Attach a brief statement of the specific facts on which the claim of judicial misconduct or disability is based. Include what happened, when and where it happened, and any information that would help an investigator check the facts. If the complaint alleges judicial disability, also include any additional facts that form the basis of that allegation.

6. **Declaration and signature:**

I declare under penalty of perjury that the statements made in this complaint are true and correct to the best of my knowledge.

(Signature)



(Date)

01-06-17

AO 83 (Rev. 06/09) Summons in a Criminal Case

## UNITED STATES DISTRICT COURT

for the

Western District of Michigan

United States of America )

v. )

MR. STACEY R. SMITH )

DEFENDANT PRO PER IN FORMA PAUPRIS. )

Case No. 1411012-FH 17TH CIRCUIT COURT. )

Defendant )

## SUMMONS IN A CRIMINAL CASE

**YOU ARE SUMMONED** to appear before the United States district court at the time, date, and place set forth below to answer to one or more offenses or violations based on the following document filed with the court:

- ☐ Indictment      ☐ Superseding Indictment      ☐ Information      ☐ Superseding Information      ☐ Complaint  
☒ Probation Violation Petition      ☐ Supervised Release Violation Petition      ☐ Violation Notice      ☐ Order of Court

Place: 110 MICHIGAN AVE NW 399 FEDERAL BUILDING,  
GRAND RAPIDS, MICHIGAN 49503.

Before:

Date and Time:

This offense is briefly described as follows:

MOTION FOR CLARITY AND  
AUTHORIZATION TO UTILIZE  
COMPUTER FACILITIES AT  
MICHWORKS ON FRANKLIN ST.  
TO SEEK EMPLOYMENT.  
AND AFFIRMATION AND DEFENSE.  
SUPPLEMENTAL BRIEF IN SUPPORT  
OF COUNTER-COMPLAINT.

Original  
Submission

Date:

01-09-17

Issuing officer's signature

Stacey R. Smith

Printed name and title

I declare under penalty of perjury that I have:

☐ Executed and returned this summons☐ Returned this summons unexecuted

Date:

Server's signature

Printed name and title

AO 83 (Rev. 06/09) Summons in a Criminal Case (Page 2)

Case No. 1411012-FH 17TH CIRCUIT COURT.

**This second page contains personal identifiers and therefore should  
not be filed in court with the summons unless under seal.  
(Not for Public Disclosure)**

**INFORMATION FOR SERVICE**Name of defendant/offender: P-11479, P-66576, P-38080, P34095Last known residence: 180 OTTAWA AVE NW, 82 IONIA AVE NW, 15 IONIA AVE NW, GRAND RAPIDS, MI 49503.

Usual place of abode (if different from residence address): \_\_\_\_\_

If the defendant is an organization, name(s) and address(es) of officer(s) or agent(s) legally authorized to receive service of process: 17TH CIRCUIT COURT, PROSECUTORS OFFICE, OFFICE OF DEFENSE COUNSEL.

If the defendant is an organization, last known address within the district or principal place of business elsewhere in the United States: \_\_\_\_\_

**PROOF OF SERVICE**

This summons was received by me on (date) \_\_\_\_\_

☐ I personally served the summons on this defendant \_\_\_\_\_ at  
(place) \_\_\_\_\_ on (date) \_\_\_\_\_; or

☐ On (date) \_\_\_\_\_ I left the summons at the individual's residence or usual place of abode  
with (name) \_\_\_\_\_, a person of suitable age and discretion who resides  
there, and I mailed a copy to the individual's last known address; or

☐ I delivered a copy of the summons to (name of individual) \_\_\_\_\_,  
who is authorized to receive service of process on behalf of (name of organization) \_\_\_\_\_  
on (date) \_\_\_\_\_ and I mailed a copy to  
the organizations's last known address within the district or to its principal place of business elsewhere in the  
United States; or

☐ The summons was returned unexecuted because: \_\_\_\_\_

I declare under penalty of perjury that this information is true.

Date returned: \_\_\_\_\_

\_\_\_\_\_  
Server's signature\_\_\_\_\_  
Printed name and titleRemarks: 2016-cp11070655308-A COMPLAINT NUMBER WITH THE MICHIGAN STATE ATTORNEY GENERAL.

**Petition for Relief From a Conviction or Sentence  
By a Person in State Custody**

(Petition Under 28 U.S.C. § 2254 for a Writ of Habeas Corpus)

**Instructions**

1. To use this form, you must be a person who is currently serving a sentence under a judgment against you in a state court. You are asking for relief from the conviction or the sentence. This form is your petition for relief.
2. You may also use this form to challenge a state judgment that imposed a sentence to be served in the future, but you must fill in the name of the state where the judgment was entered. If you want to challenge a federal judgment that imposed a sentence to be served in the future, you should file a motion under 28 U.S.C. § 2255 in the federal court that entered the judgment.
3. Make sure the form is typed or neatly written.
4. You must tell the truth and sign the form. If you make a false statement of a material fact, you may be prosecuted for perjury.
5. Answer all the questions. You do not need to cite law. You may submit additional pages if necessary. If you do not fill out the form properly, you will be asked to submit additional or correct information. If you want to submit a brief or arguments, you must submit them in a separate memorandum.
6. You must pay a fee of \$5. If the fee is paid, your petition will be filed. If you cannot pay the fee, you may ask to proceed in forma pauperis (as a poor person). To do that, you must fill out the last page of this form. Also, you must submit a certificate signed by an officer at the institution where you are confined showing the amount of money that the institution is holding for you. If your account exceeds \$ \_\_\_\_\_, you must pay the filing fee.
7. In this petition, you may challenge the judgment entered by only one court. If you want to challenge a judgment entered by a different court (either in the same state or in different states), you must file a separate petition.
8. When you have completed the form, send the original and \_\_\_\_\_ copies to the Clerk of the United States District Court at this address:

Clerk, United States District Court for the Western district of  
Michigan.  
113 Federal Building.  
215 West Allegan Street



If you want a file-stamped copy of the petition, you must enclose an additional copy of the petition and ask the court to file-stamp it and return it to you.

9. **CAUTION:** You must include in this petition all the grounds for relief from the conviction or sentence that you challenge. And you must state the facts that support each ground. If you fail to set forth all the grounds in this petition, you may be barred from presenting additional grounds at a later date.
10. **CAPITAL CASES:** If you are under a sentence of death, you are entitled to the assistance of counsel and should request the appointment of counsel.

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**PETITION UNDER 28 U.S.C. § 2254 FOR WRIT OF  
HABEAS CORPUS BY A PERSON IN STATE CUSTODY**

United States District Court		District: WESTERN DISTRICT OF MICHIGAN.
Name (under which you were convicted): MR. STACEY RENDIL SMITH		Docket or Case No.: 1:16-cv-01381-PLM-RSK
Place of Confinement : PROBATIONER	Prisoner No.: 961806.	
Petitioner (include the name under which you were convicted)  MR. STACEY RENDIL SMITH		Respondent (authorized person having custody of petitioner)  GEORGE S. BUTH P-11479 PRESIDING JUDGE 17TH CIRCUIT.
The Attorney General of the State of: THE HONORABLE: WILLIAM SCHUTTE.		

**PETITION**

1. (a) Name and location of court that entered the judgment of conviction you are challenging:  
17TH JUDICIAL CIRCUIT COURT. 180 OTTAWA AVE NW GRAND RAPIDS, MICHIGAN 49503.
- (b) Criminal docket or case number (if you know): 14-11012-FH.
2. (a) Date of the judgment of conviction (if you know): 07/22/2015
- (b) Date of sentencing: 07/22/2015
3. Length of sentence: 2 YEARS PROBATION (STEVE MEYERS) P.O.
4. In this case, were you convicted on more than one count or of more than one crime? ☒ Yes ☐ No
5. Identify all crimes of which you were convicted and sentenced in this case: COUNTS 4 THROUGH 5.
6. (a) What was your plea? (Check one)
 

<input type="checkbox"/> (1) Not guilty	<input type="checkbox"/> (3) Nolo contendere (no contest)
<input checked="" type="checkbox"/> (2) Guilty	<input type="checkbox"/> (4) Insanity plea



(b) If you entered a guilty plea to one count or charge and a not guilty plea to another count or charge, what did you plead guilty to and what did you plead not guilty to? NOT GUILTY TO COUNTS 1-3 AND GUILTY ON COUNTS 4-5.

(c) If you went to trial, what kind of trial did you have? (Check one)

☐ Jury ☐ Judge only

7. Did you testify at a pretrial hearing, trial, or a post-trial hearing?

☐ Yes ☒ No

8. Did you appeal from the judgment of conviction?

☒ Yes ☐ No

9. If you did appeal, answer the following:

(a) Name of court: MICHIGAN COURT OF APPEALS.

(b) Docket or case number (if you know): \_\_\_\_\_

(c) Result: SUBMITTED AS OF 01-06-2017

(d) Date of result (if you know): \_\_\_\_\_

(e) Citation to the case (if you know): \_\_\_\_\_

(f) Grounds raised: \_\_\_\_\_

(g) Did you seek further review by a higher state court? ☒ Yes ☐ No

If yes, answer the following:

(1) Name of court: U.S. DISTRICT COURT FOR A MOTION FOR CLARITY.

(2) Docket or case number (if you know): 1:16-cv-01381-PLM-RSK.

(3) Result: DISMISSED BY MAGISTRATE JUDGE RAY KENT.

(4) Date of result (if you know): 01/05/2017

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(5) Citation to the case (if you know): UNKNOWN.(6) Grounds raised: VIOLATION OF ARTICLE 17 OF THE MICHIGAN COMILED LAWS  
OF THE STATE OF MICHIGAN OR CONSTITUTION OF 1963 ARTICLE § 17. NO  
PERSON SHALL BE COMPELLED IN ANY CRIMINAL CASE TO BE A WITNESS  
AGAINST HIMSELF. (FASIFIED DOCUMENT OF PROBABLE CAUSE COMPLAINT).(h) Did you file a petition for certiorari in the United States Supreme Court? ☒ Yes ☐ No

If yes, answer the following:

(1) Docket or case number (if you know): IT IS HOWEVER MY INTENTIONS.

(2) Result: \_\_\_\_\_

(3) Date of result (if you know): \_\_\_\_\_

(4) Citation to the case (if you know): \_\_\_\_\_

10. Other than the direct appeals listed above, have you previously filed any other petitions, applications, or motions concerning this judgment of conviction in any state court? ☐ Yes ☒ No

11. If your answer to Question 10 was "Yes," give the following information:

(a) (1) Name of court: U.S. AND MICHIGAN COURT OF APPEALS

(2) Docket or case number (if you know): \_\_\_\_\_

(3) Date of filing (if you know): \_\_\_\_\_

(4) Nature of the proceeding: \_\_\_\_\_

(5) Grounds raised: MISCONDUCT BY PRESIDING JUDGE FOR ALLOWING INFRINGEMENT  
OF ARTICLE 17 OF THE MCIHIGAN CONSTITUTION AND ALLOWING SELF  
INCRIMINATION BY ALLOWING A FALSIFIED AFFIDAVIT FOR PROBABLE CAUSE  
COMPLAINT TO BE ACCEPTED AS EVIDENCE IN CONJUNCTION WITH ALLOWING  
THE PROSECUTORS OFFICE TO DEVIATE A FABRICATED CHARGE OF  
MCL 750.520 C (1) (H). SUBMITTING A BRIEF FOR WRIT OF MANADAMUS  
EXTRAORDINAIRE WITH EXHIBITIONS AND AN EXPARTE REQUEST FOR JUDICIAL  
REVIEW.

(6) Did you receive a hearing where evidence was given on your petition, application, or motion?

☐ Yes ☒ No(7) Result: PENDING.

(8) Date of result (if you know): \_\_\_\_\_

(b) If you filed any second petition, application, or motion, give the same information:

- (1) Name of court: BRIEF FOR WRIT OF MANDAMUS EXTRAORDINAIRE.
- (2) Docket or case number (if you know): \_\_\_\_\_
- (3) Date of filing (if you know): \_\_\_\_\_
- (4) Nature of the proceeding: \_\_\_\_\_
- (5) Grounds raised: \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

(6) Did you receive a hearing where evidence was given on your petition, application, or motion?

☐ Yes ☒ No

(7) Result: N/A

(8) Date of result (if you know): \_\_\_\_\_

(c) If you filed any third petition, application, or motion, give the same information:

- (1) Name of court: \_\_\_\_\_
- (2) Docket or case number (if you know): \_\_\_\_\_
- (3) Date of filing (if you know): \_\_\_\_\_
- (4) Nature of the proceeding: \_\_\_\_\_
- (5) Grounds raised: \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

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(6) Did you receive a hearing where evidence was given on your petition, application, or motion?

☐ Yes ☒ No

(7) Result: \_\_\_\_\_

(8) Date of result (if you know): \_\_\_\_\_

(d) Did you appeal to the highest state court having jurisdiction over the action taken on your petition, application, or motion?

(1) First petition: ☐ Yes ☒ No(2) Second petition: ☐ Yes ☐ No(3) Third petition: ☐ Yes ☐ No

(e) If you did not appeal to the highest state court having jurisdiction, explain why you did not:

\_\_\_\_\_  
\_\_\_\_\_

12. For this petition, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

**CAUTION:** To proceed in the federal court, you must ordinarily first exhaust (use up) your available state-court remedies on each ground on which you request action by the federal court. Also, if you fail to set forth all the grounds in this petition, you may be barred from presenting additional grounds at a later date.

GROUND ONE: \_\_\_\_\_

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(b) If you did not exhaust your state remedies on Ground One, explain why: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(c) **Direct Appeal of Ground One:**(1) If you appealed from the judgment of conviction, did you raise this issue? ☐ Yes ☐ No(2) If you did not raise this issue in your direct appeal, explain why: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_(d) **Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

☐ Yes ☒ No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: \_\_\_\_\_

Name and location of the court where the motion or petition was filed: \_\_\_\_\_  
\_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_(3) Did you receive a hearing on your motion or petition? ☐ Yes ☐ No(4) Did you appeal from the denial of your motion or petition? ☐ Yes ☐ No(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal? ☐ Yes ☐ No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: \_\_\_\_\_  
\_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground One: N/A

**GROUND TWO:** N/A

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

(b) If you did not exhaust your state remedies on Ground Two, explain why:

(c) **Direct Appeal of Ground Two:**

(1) If you appealed from the judgment of conviction, did you raise this issue? ☐ Yes ☐ No

(2) If you did not raise this issue in your direct appeal, explain why:

(d) **Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

☐ Yes ☒ No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition:

Name and location of the court where the motion or petition was filed:

Docket or case number (if you know):

Date of the court's decision:



Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

(3) Did you receive a hearing on your motion or petition? ☐ Yes ☐ No

(4) Did you appeal from the denial of your motion or petition? ☐ Yes ☐ No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal? ☐ Yes ☐ No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

- (e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Two : \_\_\_\_\_

**GROUND THREE:** N/A

- (a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

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(b) If you did not exhaust your state remedies on Ground Three, explain why: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(c) **Direct Appeal of Ground Three:**

(1) If you appealed from the judgment of conviction, did you raise this issue? ☐ Yes ☐ No

(2) If you did not raise this issue in your direct appeal, explain why: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(d) **Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

☐ Yes ☐ No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: \_\_\_\_\_

Name and location of the court where the motion or petition was filed: \_\_\_\_\_  
\_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(3) Did you receive a hearing on your motion or petition? ☐ Yes ☐ No

(4) Did you appeal from the denial of your motion or petition? ☐ Yes ☐ No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal? ☐ Yes ☐ No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

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- (e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Three:

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**GROUND FOUR:** N/A

- (a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

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- (b) If you did not exhaust your state remedies on Ground Four, explain why:

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- (c) **Direct Appeal of Ground Four:**

(1) If you appealed from the judgment of conviction, did you raise this issue?

☐ Yes

☐ No

(2) If you did not raise this issue in your direct appeal, explain why:

---



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- (d) **Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

☐ Yes

☒ No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition:

---

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Page 12

Name and location of the court where the motion or petition was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

(3) Did you receive a hearing on your motion or petition? ☐ Yes ☐ No

(4) Did you appeal from the denial of your motion or petition? ☐ Yes ☐ No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal? ☐ Yes ☐ No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Four: \_\_\_\_\_

13. Please answer these additional questions about the petition you are filing:

- (a) Have all grounds for relief that you have raised in this petition been presented to the highest state court having jurisdiction? ☐ Yes ☒ No

If your answer is "No," state which grounds have not been so presented and give your reason(s) for not presenting them:

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- (b) Is there any ground in this petition that has not been presented in some state or federal court? If so, which ground or grounds have not been presented, and state your reasons for not presenting them:

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14. Have you previously filed any type of petition, application, or motion in a federal court regarding the conviction that you challenge in this petition? ☒ Yes ☐ No

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, the issues raised, the date of the court's decision, and the result for each petition, application, or motion filed. Attach a copy of any court opinion or order, if available. VIOLATION OF MICHIGAN CONSTITUTION § 17 OF 1963.

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15. Do you have any petition or appeal now pending (filed and not decided yet) in any court, either state or federal, for the judgment you are challenging? ☐ Yes ☒ No

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, and the issues raised.

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16. Give the name and address, if you know, of each attorney who represented you in the following stages of the judgment you are challenging:

(a) At preliminary hearing: N/A

(b) At arraignment and plea: \_\_\_\_\_

(c) At trial: \_\_\_\_\_

(d) At sentencing: \_\_\_\_\_

(e) On appeal: \_\_\_\_\_

(f) In any post-conviction proceeding: \_\_\_\_\_

(g) On appeal from any ruling against you in a post-conviction proceeding: \_\_\_\_\_

17. Do you have any future sentence to serve after you complete the sentence for the judgment that you are challenging? ☐ Yes ☒ No

(a) If so, give name and location of court that imposed the other sentence you will serve in the future:

(b) Give the date the other sentence was imposed: \_\_\_\_\_

(c) Give the length of the other sentence: \_\_\_\_\_

(d) Have you filed, or do you plan to file, any petition that challenges the judgment or sentence to be served in the future? ☐ Yes ☒ No

18. TIMELINESS OF PETITION: If your judgment of conviction became final over one year ago, you must explain why the one-year statute of limitations as contained in 28 U.S.C. § 2244(d) does not bar your petition.\*





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(Rev. 01/15)

- (2) The time during which a properly filed application for State post-conviction or other collateral review with respect to the pertinent judgment or claim is pending shall not be counted toward any period of limitation under this subsection.

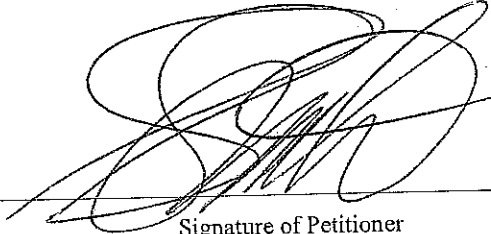
Therefore, petitioner asks that the Court grant the following relief: Petition for Relief From a Conviction or Sentence.

\_\_\_\_\_  
\_\_\_\_\_  
or any other relief to which petitioner may be entitled.

\_\_\_\_\_  
Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct and that this Petition for Writ of Habeas Corpus was placed in the prison mailing system on 01-06-17 (month, date, year).

Executed (signed) on 01-06-17 (date).

  
\_\_\_\_\_  
Signature of Petitioner

If the person signing is not petitioner, state relationship to petitioner and explain why petitioner is not signing this petition.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



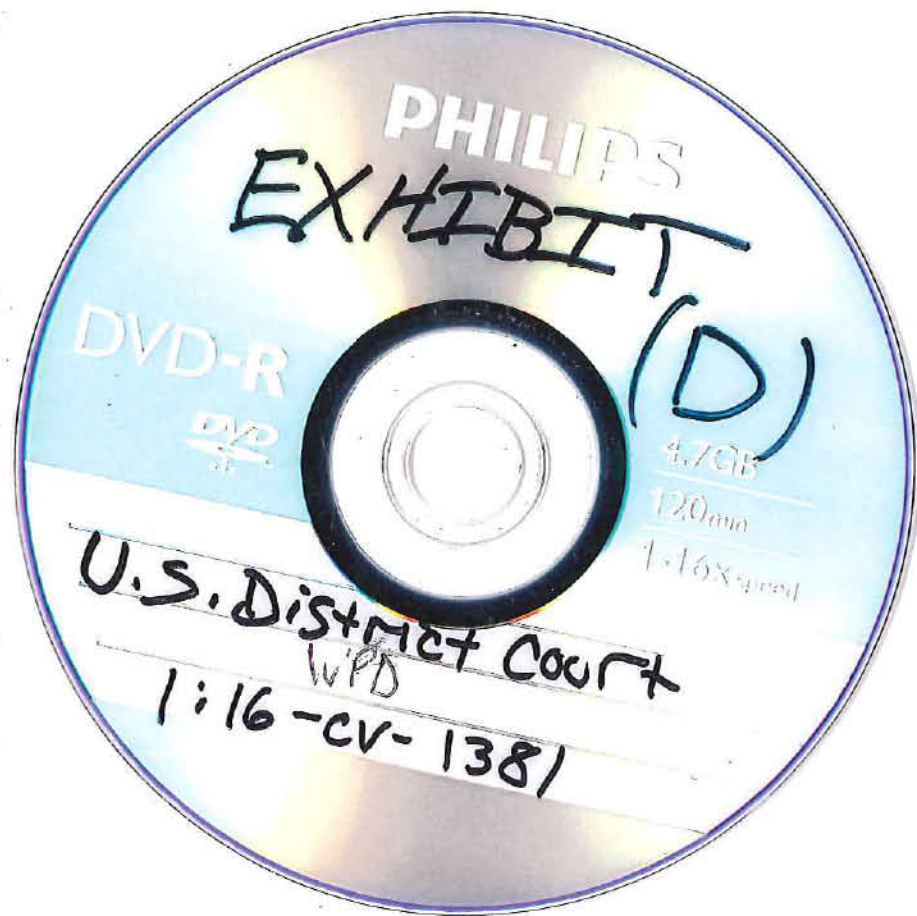
Kalamazoo SE  
and Rapids, MI 49507

U.S. Court of Appeals

Sixth Circuit

Potter Stewart U.S. Court house

Cincinnati, Ohio 45202



RECEIVED

17-1022

JAN 17 2017

IN THE UNITED STATES OF AMERICA.  
U.S. DISTRICT COURT.  
WESTERN DISTRICT OF THE STATE OF MICHIGAN.  
IN THE COUNTY OF KENT.

DEBORAH S. RUNT, CLERK

CASE NO.: 1411012-FH  
BEFORE THE HONORABLE: JUDGE BUTH.  
MCL 750.520E  
AT A SESSION IN THE 17<sup>TH</sup> JUDICIAL CIRCUIT COURT

MICHIGAN COURT OF APPEALS.  
State of Michigan Building  
350 Ottawa, NW  
Grand Rapids, MI 49503-2349  
(616) 456-1167

UNITED STATES SIXTH CIRCUIT COURT OF APPEALS.  
Potter Stewart U.S. Courthouse  
100 East Fifth Street  
Cincinnati, Ohio 45202  
Phone: (513) 564-7000

MR. STACEY R. SMITH  
PLAINTIFF (PETITIONER).  
PRO SE INFORMA PAUPERIS.

Rebuttal and request for pardon.  
The Honorable: Governor Rick Snyder.

VS.

} OBJECTIONS.

Motion to Intervene in Challenge to Constitutionality of Law.  
FED R. APP P.44  
Detective Swiercz of the Wyoming Police Department.  
28 § U.S.C. 2403.

THE HONORABLE GEORGE S. BUTH P-11479.  
DEFENDANT. (RESPONDENT).

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In accordance to the requirement to submit an objection within 14 days of the Report and Recommendation as informed by Magistrate Judge, The Honorable Ray Kent of The United States District Court, I remit said objection with regard to 28§ U.S.C. 2403 (a) : Case 1:16-cv-1381 A Federal question.

*Pursuant to the duties imposed upon it by virtue of 28 U.S.C. 2403(a), this Court will please certify to the Office of the Attorney General that the constitutionality of an Act of Congress affecting the public interest is herein drawn in question.*

The Federal question being, if a state agency is allowed to accept falsified information or document which causes (self-incrimination) to be used which infringes upon Article 17 of the Michigan Constitution in a criminal case as follows:

### **(PRIMA FACIE)**

**EXHIBIT (A) -FALSIFIED SELF-INCRIMINATION BY DETECTIVE SWIERCSZ WITH THE AFFIDAVIT FOR PROBABLE CAUSE FOR FELONY COMPLAINT 62A Judicial District Court:**

**EXHIBIT (B) § 17 Self-incrimination; due process of law; fair treatment at investigations. Sec. 17. No person shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property, without due process of law.** The right of all individuals, firms, corporations and voluntary associations to fair and just treatment in the course of legislative and executive investigations and hearings shall not be infringed. History: Const. 1963, Art. I, § 17, Eff. Jan. 1, 1964. Former constitution: See Const. 1908, Art. II, § 16.

Whereas, Magistrate Judge Ray Kent indicates that judges are immune from discipline even if process is in grave error, that it is acceptable in a court of law while the judge is aware or has knowledge of the error?

Also, your Honor, self-incrimination is protected under the fifth amendment of the U.S. Constitution as follows:

### **Self-Incrimination**

The Fifth Amendment protects criminal defendants from having to testify if they may incriminate themselves through the testimony. A witness may "plead the Fifth" and not answer if the witness believes answering the question may be self-incriminatory.

In the landmark *Miranda v. Arizona* ruling, the United States Supreme Court extended the Fifth Amendment protections to encompass any situation outside of the courtroom that involves the curtailment of personal freedom. 384 U.S. 436 (1966). Therefore, any time that law enforcement takes a suspect into custody, law enforcement must make the suspect aware of all rights. Known as *Miranda* rights, these rights include the right to remain silent, the right to have an attorney present during questioning, and the right to have a government-appointed attorney if the suspect cannot afford one.



If law enforcement fails to honor these safeguards, courts will often suppress any statements by the suspect as violative of the Fifth Amendment's protection against self-incrimination, provided that the suspect has not actually waived the rights. **An actual waiver occurs when a suspect has made the waiver knowingly, intelligently, and voluntarily.** To determine if a knowing, intelligent and voluntary waiver has occurred, a court will examine the totality of the circumstances, which considers all pertinent circumstances and events. If a suspect makes a spontaneous statement while in custody prior to being made aware of the *Miranda* rights, law enforcement can use the statement against the suspect, provided that police interrogation did not prompt the statement. **MY MIRANDA RIGHTS WERE NEVER GIVEN TO ME.**

After Congress passed the Crime Control and Safe Streets Act, some felt that the statute by implication overruled the requirements of *Miranda*. Some scholars also felt that Congress constitutionally exercised its power in passing this law because they felt that *Miranda* represented a matter of judicial policy rather than an actual manifestation of Fifth Amendment protections. In *Dickerson v. United States* the U.S. Supreme Court rejected this arguments and held that the Warren Court had directly derived *Miranda* from the Fifth Amendment.

#### Due Process Clause

The guarantee of due process for all citizens requires the government to respect all rights, guarantees, and protections afforded by the U.S. Constitution and all applicable statutes before the government can deprive a person of life, liberty, or property. Due process essentially guarantees that a party will receive a fundamentally fair, orderly, and just judicial proceeding. While the Fifth Amendment only applies to the federal government, the identical text in the Fourteenth Amendment explicitly applies this due process requirement to the states as well.

Courts have come to recognize that two aspects of due process exist: procedural due process and substantive due process. Procedural due process aims to ensure fundamental fairness by guaranteeing a party the right to be heard, ensuring that the parties receive proper notification throughout the litigation, and ensures that the adjudicating court has the appropriate jurisdiction to render a judgment. Meanwhile, substantive due process has developed during the 20th century as protecting those right so fundamental as to be "implicit in the concept of ordered liberty."

#### COUNT 1 OF MANDAMUS. EXHIBIT (K)

ACG: 16-1551. ITEMIZATION: THE HONORABLE GEORGE S. BUTH P-11479.

1. Line 4 of the Motion for Clarity, the judge did not take the inconsistencies into consideration when I stated, "after reviewing the case on 11/14/2016, that there was information in the file that I discovered was false and not accurate when I read the Affidavit

of Probable Cause for Felony Complaint from 62A District Court from a one Detective Phillip Swiercz from the Wyoming Police Department, that I admitted to the elements that he stipulated in the affidavit. THIS IS NOT TRUE AND DETECTIVE SWIERCZ FALSIFIED THIS DOCUMENT TO PROMPT THE ARREST AND COVICTION THAT I AM CURRENTLY UNDER. Judge Butth over looked the details of the inconsistencies on the dates on the 62A complaint and the police report were Detective Swiercz stated that the occurrence happened on 04/01/2014 on the police report, then put the occurrence date of 06/01/2014 on the 62A Felony Complaint and also stipulated that on 06/01/2014 that I was there at 6pm when I never worked a shift past 5pm. Please refer to enclosed work schedule. **EXHIBIT (F)**

2. The judge never acknowledged or questioned that the Discover Motion by Defense Counsel had been completely ignored while Defense Counsel failed to subpoena said DVD in question.
3. Page 2 2<sup>nd</sup> paragraph of the Motion for Clarity, I stated how the judge re-stated about the charges in a different manner that did not directly pertain to the exact charge as I then plead guilty involuntarily because of Defense Counsel of 4<sup>th</sup> degree CSC because I realized that I had no way out while Defense Counsel went along with Prosecution and not defending me at all, and then the judge just pushed the case through. (NOTE: This occurred off the record as you will see the court reporter entering in a sidebar.) I plead guilty, involuntarily because Defense Counsel lied to me and stated, "pleading guilty to CSC 4 that it would not show up on a background check and would only be available to the police and would allow me to get a job without it showing up which sounded like the only way out of this matter. I lost my existing job at the time with Uhaul in the middle of a promotion to Assistant Manager when the charge surface during their background check which was policy and I don't fault Uhaul for following policy. This is one of the reason I felt an investigation was warranted for prosecutorial and judicial misconduct.
4. Being denied proper counsel and being denied (court appointed counsel when proving my indigence is another reason an investigation is warranted). **EXHIBIT (H)**
5. Pages 2 & 3 on the Supplemental Brief in Support of Counter-Complaint were Due Process was violated by the judge not reviewing the police interview and overlooking the inconsistencies which would have brought into question why I denied the allegations 3 times in and the judge should have detected coercion from Detective Phillip Swiercz during the police interview. **EXHIBIT (D)**
6. The judge should have determined that the prosecutor Joshua Kuiper P-66576, purposely mis-identified my statement in minute 49:50 of the police interview as a friendship and

allowed the prosecutor to continue a fabricated charge of MCL 750.520C (1) (H), **EXHIBIT (N)**, to enforce the greatest possible charge against me as I stated in the police interview as the victim and I having a friendship not relationship. This was done with malice. The judge stating, "I DON'T CARE. Charge him with gross indecency", during the deliberations between Prosecution and Defense Counsel before the case began. **CANON 2 (B) of the Michigan Judicial Code of Conduct. Was the judge being respectful?**

7. MCR 6.201 (J) VIOLATION: Parties are encouraged to bring into question of noncompliance before the court at the earliest opportunity. (THIS IS MY EARLIEST OPORTUNITY SINCE DEFENSE COUNSEL FAIL TO DO SO). Willful violation by counsel of an applicable discovery rule or an order issued pursuant thereto may subject counsel to appropriate sanctions by the court. The judge should have sanctioned the Prosecutor for malicious attempt to misconstrue defendant's statement in minute 49:50 of the police interview. **EXHIBIT (D)**

#### Rule 24. Intervention

(a) Intervention of Right. Upon timely application anyone shall be permitted to intervene in an action: (1) when a statute of the United States confers an unconditional right to intervene; or (2) when the applicant claims an interest relating to the property or transaction which is the subject of the action and the applicant is so situated that the disposition of the action may as a practical matter impair or impede the applicant's ability to protect that interest, unless the applicant's interest is adequately represented by existing parties.

(b) Permissive Intervention. Upon timely application anyone may be permitted to intervene in an action: (1) when a statute of the United States confers a conditional right to intervene; or (2) when an applicant's claim or defense and the main action have a question of law or fact in common. When a party to an action relies for ground of claim or defense upon any statute or executive order administered by a federal or state governmental officer or agency or upon any regulation, order, requirement, or agreement issued or made pursuant to the statute or executive order, the officer or agency upon timely application may be permitted to intervene in the action. In exercising its discretion the court shall consider whether the intervention will unduly delay or prejudice the adjudication of the rights of the original parties.

(c) Procedure. A person desiring to intervene shall serve a motion to intervene upon the parties as provided in Rule 5. The motion shall state the grounds therefor and shall be accompanied by a pleading setting forth the claim or defense for which intervention is sought. The same procedure shall be followed when a statute of the United States gives a right to intervene.

(As amended Dec. 27, 1946, eff. Mar. 19, 1948; Dec. 29, 1948, eff. Oct. 20, 1949; Jan. 21, 1963, eff. July 1, 1963; Feb. 28, 1966, eff. July 1, 1966; Mar. 2, 1987, eff. Aug. 1, 1987; Apr. 30, 1991, eff. Dec. 1, 1991; Apr. 12, 2006, eff. Dec. 1, 2006.)

Also, your Honor, you stated that the District court does not have the authority to issue Mandamus in a State Court Proceeding while 28 U.S.C. § 1361 stipulates the following:

§1361. Action to compel an officer of the United States to perform his duty

*The district courts shall have original jurisdiction of any action in the nature of mandamus to compel an officer or employee of the United States or any agency thereof to perform a duty owed to the plaintiff.*

*(Added Pub. L. 87-748, §1(a), Oct. 5, 1962, 76 Stat. 744.)*

*Which causes me to question your willingness to be fair and impartial. I respectfully request that you review and re-consider you decision in your recent report and recommendation.*

Respectfully request that you review and reconsider your intervention.

Respectfully submitted:

/s/ Stacey R. Smith.

Mr. Stacey R. Smith  
855 Kalamazoo Ave SE  
Grand Rapids, Michigan 49507.  
616-350-5709.

01/11/2017.

## PROOF OF SERVICE.

U.S. District Court for the Western District of Michigan.  
399 Federal Building  
110 Michigan Ave NW  
Grand Rapids, Michigan 49503.

1:16-cv-1381  
HON.: Paul L. Maloney.

The Honorable: George S. Buth P-11479.  
Kent County Courthouse.  
Suite No.: 12200A.  
180 Ottawa Ave NW  
Grand Rapids, Michigan 49503.  
616-632-5020.

Governor Rick Snyder.  
P.O. Box 30013  
Lansing, Michigan 48909.

The United States Department of Justice.  
The United States Attorney General.  
The Honorable: Mrs. Loretta Lynch.  
950 Pennsylvania Ave NW  
Washington D.C. 20530-0001.  
202-514-2000. V.

Michigan State Attorney General's Office.  
Michigan State Attorney General.  
The Honorable: Mr. William Schuette.  
G. Mennen Williams Building, 7<sup>th</sup> Floor.  
525 W Ottawa ST.  
P.O. Box 30212.  
Lansing, Michigan 48909.  
517-373-1110 V.  
517-373-3042 F.

JTC No.: 16-22385.  
AGC No.: 16-1551.

(THE JUDICIAL TENURE COMMISSION) (ATTORNEY GREIVANCE COMMISSION).  
3044 W. Grand Blvd  
Detroit, Michigan 48202.  
313-875-5110. V.  
313-875-5154. F.  
[judicialtenure@courts.mi.gov](mailto:judicialtenure@courts.mi.gov)  
<http://jtc.courts.mi.gov>

Buhl Building LLC.  
535 Griswold St.  
Detroit, Michigan 48226.  
313-961-6585. V.  
<http://www.agcml.org/>

The White House.  
The President of the United States of America. ATTENTION: Magistrate Judge: Ray Kent.  
1600 Pennsylvania Ave NW  
Washington, DC 20500.  
202-456-1414.

U.S. District Court.  
113 Federal Building.  
315 West Allegen St.  
Lansing, Michigan 48933.

**PROOF OF SERVICE.**

**To the above mentioned and to the:**

**Honorable: George S. Buth.**

**As required and informed by:**


**The Court Clerk of the**

**U.S. District Court.  
113 federal Building  
315 West Allegen Street.**

**Lansing, Michigan 48933.**

**PROOF OF SERVICE.**

**I certify under the penalty of perjury of the United States of America and State of Michigan, that I mailed a true copy of this document to the addresses above on this 11th day of January 2017 A.D. by US first class mail.**



**SIGNATURE OF MR. STACEY R. SMITH ONLY.**



**Rule 44. Case Involving a Constitutional Question When the United States or the Relevant State is Not a Party**

(a) Constitutional Challenge to Federal Statute. If a party questions the constitutionality of an Act of Congress in a proceeding in which the United States or its agency, officer, or employee is not a party in an official capacity, the questioning party must give written notice to the circuit clerk immediately upon the filing of the record or as soon as the question is raised in the court of appeals. The clerk must then certify that fact to the Attorney General.

(b) Constitutional Challenge to State Statute. If a party questions the constitutionality of a statute of a State in a proceeding in which that State or its agency, officer, or employee is not a party in an official capacity, the questioning party must give written notice to the circuit clerk immediately upon the filing of the record or as soon as the question is raised in the court of appeals. The clerk must then certify that fact to the attorney general of the State.

(As amended Apr. 24, 1998, eff. Dec. 1, 1998; Apr. 29, 2002, eff. Dec. 1, 2002.)

**NOTES OF ADVISORY COMMITTEE ON RULES-1967**

This rule is now found in the rules of a majority of the circuits. It is in response to the Act of August 24, 1937 (28 U.S.C. §2403), which requires all courts of the United States to advise the Attorney General of the existence of an action or proceeding of the kind described in the rule.

**COMMITTEE NOTES ON RULES-1998 AMENDMENT**

The language of the rule is amended to make the rule more easily understood. In addition to changes made to improve the understanding, the Advisory Committee has changed language to make style and terminology consistent throughout the appellate rules. These changes are intended to be stylistic only.

**COMMITTEE NOTES ON RULES-2002 AMENDMENT**

Rule 44 requires that a party who "questions the constitutionality of an Act of Congress" in a proceeding in which the United States is not a party must provide written notice of that challenge to the clerk. Rule 44 is designed to implement 28 U.S.C. §2403(a), which states that: "In any action, suit or proceeding in a court of the United States to which the United States or any agency, officer or employee thereof is not a party, wherein the constitutionality of any Act of Congress affecting the public interest is drawn in question, the court shall certify such fact to the Attorney General, and shall permit the United States to intervene . . . for argument on the question of constitutionality."

The subsequent section of the statute-§2403(b)-contains virtually identical language imposing upon the courts the duty to notify the attorney general of a state of a constitutional challenge to any statute of that state. But §2403(b), unlike §2403(a), was not implemented in Rule 44.

Rule 44 has been amended to correct this omission. The text of former Rule 44 regarding constitutional challenges to federal statutes now appears as Rule 44(a), while new language regarding constitutional challenges to state statutes now appears as Rule 44(b).

*Changes Made After Publication and Comments.* No changes were made to the text of the proposed amendment or to the Committee Note.

Stacey R. Smith  
855 Kalamazoo Ave SE  
Grand Rapids, MI 49507

17-1022

United States Sixth Circuit Court of  
Appeals

Patricia Stewart U.S. Courthouse  
100 East Fifth Street  
Cincinnati, OH 45202



UNITED STATES  
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JAN 0003158142  
MAILED FROM ZIP CODE

**RECEIVED**

Case 1:16-cv-01381-PLM-RSK ECF No. 16 filed 01/10/17 PageID.291 Page 1 of 81 (1 of 81)

JAN 17 2017

**DEBORAH S. HUNT, Clerk**Deborah S. Hunt  
Clerk**UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT**100 EAST FIFTH STREET, ROOM 540  
POTTER STEWART U.S. COURTHOUSE  
CINCINNATI, OHIO 45202-3988Tel. (513) 564-7000  
[www.ca6.uscourts.gov](http://www.ca6.uscourts.gov)

Filed: January 10, 2017

Stacey R. Smith  
855 Kalamazoo Avenue, S.E.  
Grand Rapids, MI 49507Re: Case No. 17-1022, *In re: Stacey Smith*  
Originating Case No. : 1:16-cv-01381

Dear Sir,

The petition for writ of mandamus or prohibition has been docketed as case number **17-1022** with the caption listed above. If you have not already done so, you must mail a copy of the petition to the lower court judge and counsel for all the other parties.

The filing fee for the petition is \$500, which is payable to the Clerk, Sixth Circuit Court of Appeals. If you wish to seek a waiver of the filing fee, a motion for pauper status with a completed financial affidavit is due by **February 9, 2017**. The financial affidavit is available at [www.ca6.uscourts.gov](http://www.ca6.uscourts.gov) (one has been enclosed for your convenience also).

The district court judge to whom this petition refers has been served with this letter.

Sincerely yours,

s/Cheryl Borkowski  
Case Manager  
Direct Dial No. 513-564-7035

cc: Mr. Thomas Dorwin

**RECEIVED**

JAN 17 2017

DEBORAH S. HUNT, Clerk

UNITED STATES OF AMERICA  
UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

STACEY R. SMITH,

Plaintiff,

Case No. 1:16-cv-1381

v.

Hon. Paul L. Maloney

GEORGE S. BUTH,

Defendant.  
\_\_\_\_\_ /**ORDER TO PROCEED IN FORMA PAUPERIS**

IT IS ORDERED that plaintiff may commence this action without prepayment of fees or costs or security therefor. Any pleadings herein served by the United States Marshal shall be at the expense of the United States government. All costs shall be reimbursed to the United States government should the plaintiff prevail.

IT IS FURTHER ORDERED that plaintiff shall serve upon defendant or, if appearance has been entered by an attorney, upon the attorney, a copy of every further pleading or other document submitted for consideration by the Court. The plaintiff shall include with the original paper to be filed with the Clerk of the Court a certificate stating the date a true and correct copy of any document was mailed to defendant or the attorney. Any paper received by a District Judge or Magistrate Judge which has not been filed with the Clerk or which fails to include a certificate of service will be disregarded by the Court.

Dated: December 7, 2016

/s/ Ray Kent

RAY KENT

United States Magistrate Judge

RECEIVED

JAN 17 2017

Case 1:16-cv-01381-PLM-RSK ECF No. 2 filed 12/01/16 PageID.79 Page 1 of 3

DEBORAH S. HUNT, Clerk

## UNITED STATES DISTRICT COURT

for the

WESTERN DISTRICT OF MICHIGAN

FILED - GR  
December 1, 2016 1:41 PMCLERK OF COURT  
U.S. DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
BY: kvj/ Scanned: kw 12/5

MR. STACEY R. SMITH.

Plaintiff/Petitioner

v.

1411012-FH

Defendant/Respondent

Civil Action No.

1:16-cv-1381

Paul L. Maloney

United States District Judge

APPLICATION TO PROCEED IN DISTRICT COURT WITHOUT PREPAYING FEES OR COSTS  
(Short Form)

I am a plaintiff or petitioner in this case and declare that I am unable to pay the costs of these proceedings and that I am entitled to the relief requested.

In support of this application, I answer the following questions under penalty of perjury:

1. *If incarcerated.* I am being held at: \_\_\_\_\_.

If employed there, or have an account in the institution, I have attached to this document a statement certified by the appropriate institutional officer showing all receipts, expenditures, and balances during the last six months for any institutional account in my name. I am also submitting a similar statement from any other institution where I was incarcerated during the last six months.

2. *If not incarcerated.* If I am employed, my employer's name and address are:

UNEMPLOYED DUE TO THIS MATTER. I LOST 4 JOBS IN BETWEEN THE INCIDENT UNTIL NOW

My gross pay or wages are: \$ 0.00 , and my take-home pay or wages are: \$ 0.00 per

(specify pay period) \_\_\_\_\_.

3. *Other Income.* In the past 12 months, I have received income from the following sources (check all that apply):

- |  |                              |  |
|--|------------------------------|--|
| (a) Business, profession, or other self-employment | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| (b) Rent payments, interest, or dividends          | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| (c) Pension, annuity, or life insurance payments   | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| (d) Disability, or worker's compensation payments  | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| (e) Gifts, or inheritances                         | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| (f) Any other sources                              | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |

If you answered "Yes" to any question above, describe below or on separate pages each source of money and state the amount that you received and what you expect to receive in the future.

N/A MY UNEMPLOYMENT STOPPED AS OF 11/23/2016



Case 1:16-cv-01381-PLM-RSK ECF No. 2 filed 12/01/16 PageID.80 Page 2 of 3

AO 240 (Rev. 07/10) Application to Proceed in District Court Without Prepaying Fees or Costs (Short Form)

4. Amount of money that I have in cash or in a checking or savings account: \$ -599.005. Any automobile, real estate, stock, bond, security, trust, jewelry, art work, or other financial instrument or thing of value that I own, including any item of value held in someone else's name *(describe the property and its approximate value)*:

NONE

6. Any housing, transportation, utilities, or loan payments, or other regular monthly expenses *(describe and provide the amount of the monthly expense)*:

LOST MY HOME WHEN CONFINED TO S.O.R.A. NO PROCEEDS FROM THE SALE.

7. Names (or, if under 18, initials only) of all persons who are dependent on me for support, my relationship with each person, and how much I contribute to their support:

N/A

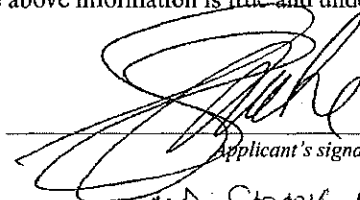
8. Any debts or financial obligations *(describe the amounts owed and to whom they are payable)*:

RENT 300.00 / MOS AND CAN NOT PAY. NO FUNDS AVAILABLE.  
M.D.O.C. 1800.00 BALANCE 1600.00  
DEFENSE COUNSEL 2500.00 BALANCE 0.00  
PROVED MY INDIGENCE BEFOR THIS STARTED -1087.00  
STUDENT LOANS 28000.00.

BALANCE: -33,487.00

*Declaration:* I declare under penalty of perjury that the above information is true and understand that a false statement may result in a dismissal of my claims.

Date:

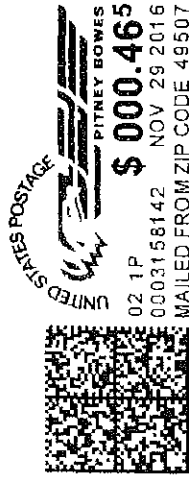
11/29/16

Applicant's signature

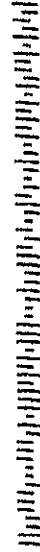
Mr. Stacey R. Smith  
Printed name

Stacey R. Smith  
855 Kalamazoo Ave SE  
Grand Rapids, MI 49507

U.S. District Court  
399 Federal Building  
110 Michigan Ave N.W. 49503



49503\$2300 C020





1

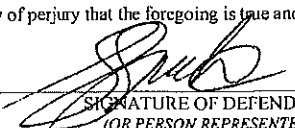
Case 1:16-cv-01381-PLM-RSK ECF No. 2-1 filed 12/01/16 PageID.83 Page 2 of 2

CIA 23 (Rev. 11/11)		<b>FINANCIAL AFFIDAVIT</b>	
IN SUPPORT OF REQUEST FOR ATTORNEY, EXPERT, OR OTHER SERVICES WITHOUT PAYMENT OF FEE			
IN THE UNITED STATES <input checked="" type="checkbox"/> DISTRICT COURT <input type="checkbox"/> COURT OF APPEALS <input type="checkbox"/> OTHER (Specify below)		LOCATION NUMBER	
IN THE CASE OF		FOR	
UNITED STATES v. STACEY R. SMITH		AT	
1411012-FH 17TH CIRCUIT.			
PERSON REPRESENTED (Show your full name) STACEY R. SMITH 855 KALAMAZOO AVE SE GRAND RAPIDS, MICHIGAN 49507. 616-350-5709.		1 <input checked="" type="checkbox"/> Defendant - Adult 2 <input type="checkbox"/> Defendant - Juvenile 3 <input type="checkbox"/> Appellant 4 <input type="checkbox"/> Probation Violator 5 <input type="checkbox"/> Supervised Release Violator 5 <input type="checkbox"/> Habeas Petitioner 7 <input type="checkbox"/> 2255 Petitioner 8 <input type="checkbox"/> Material Witness 9 <input type="checkbox"/> Other (Specify)	
CHARGE/OFFENSE (describe if applicable & check box --) <input type="checkbox"/> Felony <input checked="" type="checkbox"/> Misdemeanor MCL 750.3520E		DOCKET NUMBERS Magistrate Judge District Court Court of Appeals	

ANSWERS TO QUESTIONS REGARDING ABILITY TO PAY																														
<b>INCOME &amp; ASSETS</b>	<b>EMPLOYMENT</b>	Are you now employed? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Self-Employed Name and address of employer: <u>UNEMPLOYED.</u> IF YES, how much do you earn per month? \$ <u>1,448.00</u> IF NO, give month and year of last employment? _____ How much did you earn per month? \$ _____																												
	<b>OTHER INCOME</b>	If married, is your spouse employed? <input type="checkbox"/> Yes <input type="checkbox"/> No IF YES, how much does your spouse earn per month? \$ _____ If you are a minor under age 21, what is the approximate monthly income of your parent(s) or guardian(s)? \$ _____																												
	<b>CASH</b>	Have you received within the past 12 months any income from a business, profession or other form of self-employment, or in the form of rent payments, interest, dividends, retirement or annuity payments, or other sources? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <table style="width: 100%; border-collapse: collapse;"> <tr> <th style="width: 50%; text-align: center;">RECEIVED</th> <th style="width: 50%; text-align: center;">SOURCES</th> </tr> <tr> <td>IF YES, give the amount received and identify the sources \$ _____</td> <td>_____</td> </tr> </table>		RECEIVED	SOURCES	IF YES, give the amount received and identify the sources \$ _____	_____																							
	RECEIVED	SOURCES																												
	IF YES, give the amount received and identify the sources \$ _____	_____																												
<b>PROPERTY</b>	Do you have any cash on hand or money in savings or checking accounts? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No IF YES, total amount? \$ <u>-434.36</u> Do you own any real estate, stocks, bonds, notes, automobiles, or other valuable property (excluding ordinary household furnishings and clothing)? <input type="checkbox"/> Yes <input type="checkbox"/> No <table style="width: 100%; border-collapse: collapse;"> <tr> <th style="width: 50%; text-align: center;">VALUE</th> <th style="width: 50%; text-align: center;">DESCRIPTION</th> </tr> <tr> <td>IF YES, give value and description for each \$ _____</td> <td>_____</td> </tr> </table>		VALUE	DESCRIPTION	IF YES, give value and description for each \$ _____	_____																								
VALUE	DESCRIPTION																													
IF YES, give value and description for each \$ _____	_____																													
<b>OBLIGATIONS &amp; DEBTS</b>	<table style="width: 100%; border-collapse: collapse;"> <tr> <th style="width: 30%; text-align: center;">DEPENDENTS</th> <th style="width: 20%; text-align: center;">MARITAL STATUS</th> <th style="width: 20%; text-align: center;">Total No. of Dependents</th> <th style="width: 30%; text-align: center;">List persons you actually support and your relationship to them</th> </tr> <tr> <td></td> <td><input checked="" type="checkbox"/> Single <input type="checkbox"/> Married <input type="checkbox"/> Widowed <input type="checkbox"/> Separated or Divorced</td> <td></td> <td></td> </tr> </table> <table style="width: 100%; border-collapse: collapse;"> <tr> <th style="width: 30%; text-align: center;">DEBTS &amp; MONTHLY BILLS (Rent, utilities, loans, charge accounts, etc.)</th> <th style="width: 30%; text-align: center;">DESCRIPTION</th> <th style="width: 20%; text-align: center;">TOTAL DEBT</th> <th style="width: 20%; text-align: center;">MONTHLY PAYMENT</th> </tr> <tr> <td></td> <td>DEFENSE COUNSEL, P-34095, JOHN R. BEASON.</td> <td>\$ 2,500.00</td> <td>\$ 0.00</td> </tr> <tr> <td></td> <td>BROTHER WHO PAID FOR DEFENSE COUNSEL.</td> <td>\$ 2,500.00</td> <td>\$ 0.00</td> </tr> <tr> <td></td> <td>M.D.C.C.</td> <td>\$ 1,800.00</td> <td>\$ 1,800.00</td> </tr> <tr> <td></td> <td>STUDENT LOANS.</td> <td>\$ 28,000.00</td> <td>\$ 0.00</td> </tr> </table>		DEPENDENTS	MARITAL STATUS	Total No. of Dependents	List persons you actually support and your relationship to them		<input checked="" type="checkbox"/> Single <input type="checkbox"/> Married <input type="checkbox"/> Widowed <input type="checkbox"/> Separated or Divorced			DEBTS & MONTHLY BILLS (Rent, utilities, loans, charge accounts, etc.)	DESCRIPTION	TOTAL DEBT	MONTHLY PAYMENT		DEFENSE COUNSEL, P-34095, JOHN R. BEASON.	\$ 2,500.00	\$ 0.00		BROTHER WHO PAID FOR DEFENSE COUNSEL.	\$ 2,500.00	\$ 0.00		M.D.C.C.	\$ 1,800.00	\$ 1,800.00		STUDENT LOANS.	\$ 28,000.00	\$ 0.00
DEPENDENTS	MARITAL STATUS	Total No. of Dependents	List persons you actually support and your relationship to them																											
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	M.D.C.C.	\$ 1,800.00	\$ 1,800.00																											
	STUDENT LOANS.	\$ 28,000.00	\$ 0.00																											

I certify under penalty of perjury that the foregoing is true and correct.

  
 SIGNATURE OF DEFENDANT  
 (OR PERSON REPRESENTED)

 11/30/16  
 Date

2

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 Bank of America | Online Banking | Accounts Overview Page 1 of 2

## Online Banking

Stacey R Smith Profile &amp; Settings Sign Out

How can we help you?

Accounts

Bill Pay

Transfers

Special Offers &amp; Deals

Tools &amp; Investing

Open an Account

Help &amp; Support

Hello, Stacey a\*\*\*\*n@att.net | Update Profile | Security Center

## Personal accounts\*

Checking-7239 -\$434.36

Quick View Low balance

Regular Savings - 0774 \$8.00

Quick View

## Investment accounts

Get up to \$600 when you invest in a new Merrill Edge® retirement account.  
 You'll thank yourself later.

Learn more about investing with Merrill Edge® &gt;&gt;

Open a new account

\* For checking, savings, and money market accounts, the balance may reflect transactions that have not yet posted to your account. For credit card, Gold Option and Gold Reserve accounts, the balance may not reflect recent transactions or pending payments.

Last sign in 11/30/2016 at 09:25 AM ET

Secure Area

En Español | Sign Out

Locations

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Browse with Specialist

Privacy &amp; Security

Online Banking Service Agreement

Advertising Practices

## Investment and Insurance products:

Are Not FDIC Insured	Are Not Bank Guaranteed	May Lose Value
Are Not Deposits	Are Not Insured By Any Federal Government Agency	Are Not a Condition to Any Banking Service or Activity

Banking, credit card, automobile loans, mortgage and home equity products are provided by Bank of America, N.A. and affiliated banks, Members FDIC and wholly owned subsidiaries of Bank of America Corporation. Credit and collateral are subject to approval. Terms and conditions apply. This is not a commitment to lend. Programs, rates, terms and conditions are subject to change without notice.

Investing in securities involves risks, and there is always the potential of losing money when you invest in securities. You should review any planned financial transactions that may have tax or legal implications with your personal tax or legal advisor.

Merrill Lynch is the marketing name for Merrill Lynch and Merrill Edge® which are made available through Merrill Lynch, Pierce, Fenner & Smith Incorporated (MLPF&S).

Merrill Lynch Wealth Management makes available products and services offered by MLPF&S and other subsidiaries of Bank of America Corporation. Merrill Edge is available through Merrill Lynch, Pierce, Fenner & Smith Incorporated (MLPF&S) and consists of the Merrill Edge Advisory Center (investment guidance) and self-directed online investing.

Securities products are provided by MLPF&S, a registered broker-dealer, Member SIPC, and a wholly-owned subsidiary of Bank of America Corporation.

Insurance Products are offered through Merrill Lynch Life Agency Inc.(MLLA), Bank of America, N.A. and/or Bank of America Insurance Services, Inc., all of which are licensed insurance agencies and wholly-owned subsidiaries of Bank of America Corporation.

Bank of America, N.A. Member FDIC. Equal Housing Lender

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Online Banking

**Checking-7239: Account Activity**Balance Summary: -\$434.36 (available as of today 11/30/2016)  
View: today 11/30/2016

Print

**All Transactions**

Posting Date	Description	Status	\$Amount	\$Available Balance
Amount included in Available Balance				
11/29/2016	OVERDRAFT ITEM FEE FOR ACTIVITY OF 11-29 ELECTRONIC TRANSACTION POSTING DATE...	C	-35.00	-434.36
11/29/2016	OneUnited Bank DES:UNITY Visa ID:01100127 INDN:22201776 Smith CO...	P	-1,000.00	-399.36
11/29/2016	Bill Pay Check 5145: Community West Credit Union	C	-400.00	600.64
11/29/2016	MI TLR transfer Banking Ctr 28TH & MICHAEL #0000384 MI Confirmation# 0543753498	C	200.00	1,000.64
11/29/2016	Counter Credit	C	400.00	800.64
11/28/2016	CHECKCARD 1127 BP#9679424FRANKLI GRAND RAPIDS MI 55316586332740332250076	C	-6.13	400.64
11/28/2016	MISS TRACY PAR 11/26 #000002581 PURCHASE 1043 FRANKLIN ST GRAND RAPIDS MI	C	-6.07	406.77
11/28/2016	Online Banking transfer from SAV 0774 Confirmation# 2534895436	C	2.00	412.84
11/25/2016	MISS TRACY PAR 11/25 #000540270 PURCHASE 1043 FRANKLIN ST GRAND RAPIDS MI	C	-6.07	410.84
11/25/2016	CHECKCARD 1124 BP#9679424FRANKLI GRAND RAPIDS MI 55316586329740329150094	C	-6.00	416.91
11/25/2016	CHECKCARD 1123 BP#9679424FRANKLI GRAND RAPIDS MI 55316586328740328100067	C	-6.02	422.91
11/23/2016	Online Banking transfer to SAV 0774 Confirmation# 3390316726	C	-300.00	428.93
11/23/2016	UIA PRE-PAID CAR DES:UI BENEFIT ID:XXXXX51168 INDN:S R SMITH CO...	C	724.00	728.93
11/15/2016	OD PROTECTION FEE REFUND FDES NMO 0006576 999998	C	12.00	4.93
11/14/2016	Overdraft Protection Transfer Fee	C	-12.00	-7.07

Posting Date	Description	Status	\$Amount	\$Available Balance
11/14/2016	MISS TRACY PAR 11/14 #000185614 PURCHASE 1043 FRANKLIN ST GRAND RAPIDS MI	C	-6.07	4.93
11/14/2016	OVERDRAFT PROTECTION FROM 00008105500774	C	5.00	11.00
11/10/2016	5/3 BK, W MIO 11/10 #000329037 WITHDRWL 754 FRANKLIN ST S GRAND RAPIDS MI FEE	C	-2.50	6.00
11/10/2016	5/3 BK, W MIO 11/10 #000329037 WITHDRWL 754 FRANKLIN ST S GRAND RAPIDS MI	C	-663.50	8.50
11/10/2016	Online Banking transfer to SAV 0774 Confirmation# 2478186801	C	-40.00	672.00
11/10/2016	UIA PRE-PAID CAR DES: UI BENEFIT ID:XXXXX3120 INDN: S R SMITH CO ID:XXXXX38297 PPD	C	724.00	712.00

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Statement as of 11/04/2016				
11/02/2016	CHECKCARD 1031 BP#9679424FRANKLI GRAND RAPIDS MI 55316586306743305590264	C	-7.28	-12.00
10/31/2016	5/3 BK, W MIO 10/31 #000112592 WITHDRWL 754 FRANKLIN ST S GRAND RAPIDS MI FEE	C	-2.50	-4.72
10/31/2016	5/3 BK, W MIO 10/30 #000225137 WITHDRWL 754 FRANKLIN ST S GRAND RAPIDS MI FEE	C	-2.50	-2.22
10/31/2016	Overdraft Protection Transfer Fee	C	-12.00	0.28
10/31/2016	MISS TRAC 1043 10/31 #000410339 PURCHASE MISS TRAC 1043 FR GRAND RAPIDS MI	C	-4.90	12.28
10/31/2016	5/3 BK, W MIO 10/31 #000112592 WITHDRWL 754 FRANKLIN ST S GRAND RAPIDS MI	C	-23.50	17.18
10/31/2016	CHECKCARD 1030 BP#9679424FRANKLI GRAND RAPIDS MI 55316586304740304550382	C	-6.00	40.68
10/31/2016	5/3 BK, W MIO 10/30 #000225137 WITHDRWL 754 FRANKLIN ST S GRAND RAPIDS MI	C	-63.50	46.68
10/31/2016	CHECKCARD 1028 BP#9679424FRANKLI GRAND RAPIDS MI 55316586302740302470338	C	-6.02	110.18
10/31/2016	Online Banking transfer from SAV 0774 Confirmation# 2492677794	C	1.00	116.20
10/31/2016	OVERDRAFT PROTECTION FROM 00008105500774	C	4.00	115.20



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 Bank of America | Online Banking | Accounts | Account Details | Account Activity Page 3 of 3

Posting Date	Description	Status	\$Amount	\$Available Balance
10/31/2016	Online Banking transfer from SAV 0774 Confirmation# 3391364873	C	35.00	111.20
10/31/2016	Online Banking transfer from SAV 0774 Confirmation# 2182882462	C	60.00	76.20
10/28/2016	Online Banking transfer from SAV 0774 Confirmation# 1365487388	C	13.20	16.20
10/26/2016	5/3 BK, W MIO 10/26 #000015402 WITHDRWL 754 FRANKLIN ST S GRAND RAPIDS MI FEE	C	-2.50	3.00
10/26/2016	5/3 BK, W MIO 10/26 #000015402 WITHDRWL 754 FRANKLIN ST S GRAND RAPIDS MI	C	-623.50	5.50
10/26/2016	Online Banking transfer to SAV 0774 Confirmation# 2247783887	C	-100.00	629.00
10/26/2016	UIA PRE-PAID CAR DES:UI BENEFIT ID:XXXXX89056 INDN:S R SMITH CO...	C	724.00	729.00
10/18/2016	Bill Pay Check 5144: Community West Credit Union	C	-300.00	5.00
10/18/2016	Online Banking transfer from SAV 0774 Confirmation# 1283173031	C	7.00	305.00
10/17/2016	ISPA/PIMDS 10/15 #000003560 WITHDRWL PAI ISO GRAND RAPIDS MI FEE	C	-2.50	298.00
10/17/2016	ISPA/PIMDS 10/15 #000003560 WITHDRWL PAI ISO GRAND RAPIDS MI	C	-173.40	300.50
10/17/2016	Online Banking transfer from SAV 0774 Confirmation# 2356181363	C	69.00	473.90
10/17/2016	Online Banking transfer from SAV 0774 Confirmation# 1256207823	C	100.00	404.90
10/14/2016	SPEEDWAY 08768 10/14 #000610808 PURCHASE SPEEDWAY 08768 GR GRAND RAPIDS MI	C	-7.80	304.90
10/13/2016	BKOFAMERICA ATM 10/13 #000005981 DEPOSIT MICHIGAN/PLYMOUTH GRAND RAPIDS MI	C	300.00	312.70
10/12/2016	5/3 BK, W MIO 10/12 #000012631 WITHDRWL 754 FRANKLIN ST S GRAND RAPIDS MI FEE	C	-2.50	12.70
10/12/2016	Online Banking transfer to SAV 0774 Confirmation# 7327000223	C	-5.50	15.20
10/12/2016	5/3 BK, W MIO 10/12 #000012631 WITHDRWL 754 FRANKLIN ST S GRAND RAPIDS MI	C	-703.50	20.70

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P.O. Box 15284  
Wilmington, DE 19850

STACEY R SMITH  
855 KALAMAZOO AVE SE  
GRAND RAPIDS, MI 49507-1379

**Customer service information**

Customer service: 1.800.432.1000  
TDD/TTY users only: 1.800.288.4408  
En Español: 1.800.688.6086  
bankofamerica.com  
Bank of America, N.A.  
P.O. Box 25118  
Tampa, FL 33622-5118

**Your combined statement**

for October 06, 2016 to November 3, 2016

Your deposit accounts	Account/plan number	Ending balance	Details on
BofA Core Checking		-\$12.00	Page 3
Regular Savings		-\$35.00	Page 7
<b>Total balance</b>		<b>-\$47.00</b>	

STACEY R SMITH | Account # 1

October 6, 2016 to November 3, 2016

## IMPORTANT INFORMATION: BANK DEPOSIT ACCOUNTS

**Updating your contact information** - We encourage you to keep your contact information up-to-date. This includes address, email and phone number. If your information has changed, the easiest way to update it is by visiting the Help & Support tab of Online Banking. Or, you can call our Customer Service team.

**Deposit agreement** - When you opened your account, you received a deposit agreement and fee schedule and agreed that your account would be governed by the terms of these documents, as we may amend them from time to time. These documents are part of the contract for your deposit account and govern all transactions relating to your account, including all deposits and withdrawals. Copies of both the deposit agreement and fee schedule which contain the current version of the terms and conditions of your account relationship may be obtained at our financial centers.

**Electronic transfers**: In case of errors or questions about your electronic transfers - If you think your statement or receipt is wrong or you need more information about an electronic transfer (e.g., ATM transactions, direct deposits or withdrawals, point-of-sale transactions) on the statement or receipt, telephone or write us at the address and number listed on the front of this statement as soon as you can. We must hear from you no later than 60 days after we sent you the FIRST statement on which the error or problem appeared.

- Tell us your name and account number.
- Describe the error or transfer you are unsure about, and explain as clearly as you can why you believe there is an error or why you need more information.
- Tell us the dollar amount of the suspected error.

For consumer accounts used primarily for personal, family or household purposes, we will investigate your complaint and will correct any error promptly. If we take more than 10 business days (10 calendar days if you are a Massachusetts customer) (20 business days if you are a new customer, for electronic transfers occurring during the first 30 days after the first deposit is made to your account) to do this, we will credit your account for the amount you think is in error, so that you will have use of the money during the time it will take to complete our investigation.

For other accounts, we investigate, and if we find we have made an error, we credit your account at the conclusion of our investigation.

**Reporting other problems** - You must examine your statement carefully and promptly. You are in the best position to discover errors and unauthorized transactions on your account. If you fail to notify us in writing of suspected problems or an unauthorized transaction within the time period specified in the deposit agreement (which periods are no more than 60 days after we make the statement available to you and in some cases are 30 days or less), we are not liable to you for, and you agree to not make a claim against us for the problems or unauthorized transactions.

**Direct deposits** - If you have arranged to have direct deposits made to your account at least once every 60 days from the same person or company, you may call us at the telephone number listed on the front of this statement to find out if the deposit was made as scheduled. You may also review your activity online or visit a financial center for information.

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Bank of America, N.A. Member FDIC and  Equal Housing Lender

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**Your checking account**

Account number

**Your BofA Core Checking****STACEY R SMITH****Account summary**

Beginning balance on October 6, 2016	\$0.20
Deposits and other additions	2,037.20
Withdrawals and other subtractions	-1,724.90
Checks	-300.00
Service fees	-24.50
<b>Ending balance on November 3, 2016</b>	<b>-\$12.00</b>

Your account has overdraft protection provided by deposit account number

**Deposits and other additions**

Date	Description	Amount
10/12/16	UIA PRE-PAID CAR DES:UI BENEFIT ID:XXXXXXXXX INDN:S R SMITH CO ID:1382538297 PPD	724.00
10/13/16	BKOFAMERICA ATM 10/13 #000005981 DEPOSIT MICHIGAN/PLYMOUTH GRAND RAPIDS MI	300.00
10/17/16	Online Banking transfer from SAV 0774 Confirmation# 1256207823	100.00
10/17/16	Online Banking transfer from SAV 0774 Confirmation# 2356181363	69.00
10/18/16	Online Banking transfer from SAV 0774 Confirmation# 1283173031	7.00
10/26/16	UIA PRE-PAID CAR DES:UI BENEFIT ID:2042189056 INDN:S R SMITH CO ID:1382538297 PPD	724.00
10/28/16	Online Banking transfer from SAV 0774 Confirmation# 1365487388	13.20
10/31/16	Online Banking transfer from SAV 0774 Confirmation# 2182882462	60.00

continued on the next page

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**Go to [bankofamerica.com/fighthunger](http://bankofamerica.com/fighthunger)  
to donate and encourage your  
friends to do the same.**



For every  
\$1 you donate,  
we'll give  
\$2 more.\*

\*All donations, including the Bank of America Foundation's matching donations, will go to the Feeding America network (the Feeding America National Office, or affiliated local food banks). For individual donations made to Feeding America through the Give a Meal™ program before December 31, 2016, the Foundation will match each donation (up to \$1,000 per donor) two-to-one, with a maximum total Foundation donation of up to \$50,000 to any individual local food bank, and an aggregate maximum Foundation donation of up to \$1,500,000 for all Feeding America programs. Bank of America, N.A. Member FDIC. ©2016 Bank of America Corporation SSM-08-16-0100.B | ARBP5DKK

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STACEY R SMITH | Account # | October 6, 2016 to November 3, 2016

**Deposits and other additions - continued**

Date	Description	Amount
10/31/16	Online Banking transfer from SAV 0774 Confirmation# 3391364873	35.00
10/31/16	OVERDRAFT PROTECTION FROM 00008105500774	4.00
10/31/16	Online Banking transfer from SAV 0774 Confirmation# 2492677794	1.00
<b>Total deposits and other additions</b>		<b>\$2,037.20</b>

**Withdrawals and other subtractions**

Date	Description	Amount
10/12/16	5/3 BK, W MI O 10/12 #000012631 WITHDRWL 754 FRANKLIN ST S GRAND RAPIDS MI	-703.50
10/12/16	Online Banking transfer to SAV 0774 Confirmation# 7327000223	-5.50
10/14/16	SPEEDWAY 08768 10/14 #000610808 PURCHASE SPEEDWAY 08768 GR GRAND RAPIDS MI	-7.80
10/17/16	ISPA/PIMDS 10/15 #000003560 WITHDRWL PAI ISO GRAND RAPIDS MI	-173.40
10/26/16	Online Banking transfer to SAV 0774 Confirmation# 2247783887	-100.00
10/26/16	5/3 BK, W MI O 10/26 #000015402 WITHDRWL 754 FRANKLIN ST S GRAND RAPIDS MI	-623.50
10/31/16	CHECKCARD 1028 BP#9679424FRANKLI GRAND RAPIDS MI 55316586302740302470338	-6.02
10/31/16	5/3 BK, W MI O 10/30 #000225137 WITHDRWL 754 FRANKLIN ST S GRAND RAPIDS MI	-63.50
10/31/16	CHECKCARD 1030 BP#9679424FRANKLI GRAND RAPIDS MI 55316586304740304550382	-6.00
10/31/16	5/3 BK, W MI O 10/31 #000112592 WITHDRWL 754 FRANKLIN ST S GRAND RAPIDS MI	-23.50
10/31/16	MISS TRAC 1043 10/31 #000410339 PURCHASE MISS TRAC 1043 FR GRAND RAPIDS MI	-4.90
11/02/16	CHECKCARD 1031 BP#9679424FRANKLI GRAND RAPIDS MI 55316586306743305590264	-7.28
<b>Total withdrawals and other subtractions</b>		<b>-\$1,724.90</b>

**Checks**

Date	Check #	Amount
10/18/16	5144	-300.00
<b>Total checks</b>		<b>-\$300.00</b>
<b>Total # of checks</b>		<b>1</b>



## Your checking account

STACEY R SMITH | Account

| October 6, 2016 to November 3, 2016

## Service fees

**Your Overdraft and NSF: Returned Item fees for this statement period and year to date are shown below.**

	Total for this period	Total year-to-date
Total Overdraft fees	\$0.00	\$35.00
Total NSF: Returned Item fees	\$0.00	\$0.00

We refunded to you a total of \$35.00 in fees for Overdraft and/or NSF: Returned Items this year.

**To help avoid overdraft and returned item fees, you can set up:**

Customized alerts – get email or text message alerts (footnote 1) to let you know if your balance is low

Overdraft Protection – enroll to help protect yourself from overdrafts and declined transactions

To enroll, go to [bankofamerica.com/online](http://bankofamerica.com/online), call us at the number listed on this statement, or come see us at your nearest financial center.

(footnote 1) Alerts received as text messages on your mobile access device may incur a charge from your mobile access service provider. This feature is not available on the Mobile website. Wireless carrier fees may apply.

Date	Transaction description	Amount
10/12/16	5/3 BK, W MI O 10/12 #000012631 WITHDRWL 754 FRANKLIN ST S GRAND RAPIDS MI FEE	-2.50
10/17/16	ISPA/PIMDS 10/15 #000003560 WITHDRWL PAI ISO GRAND RAPIDS MI FEE	-2.50
10/26/16	5/3 BK, W MI O 10/26 #000015402 WITHDRWL 754 FRANKLIN ST S GRAND RAPIDS MI FEE	-2.50
10/31/16	Overdraft Protection Transfer Fee	-12.00
10/31/16	5/3 BK, W MI O 10/30 #000225137 WITHDRWL 754 FRANKLIN ST S GRAND RAPIDS MI FEE	-2.50
10/31/16	5/3 BK, W MI O 10/31 #000112592 WITHDRWL 754 FRANKLIN ST S GRAND RAPIDS MI FEE	-2.50
<b>Total service fees</b>		<b>-\$24.50</b>

Note your Ending Balance already reflects the subtraction of Service Fees.

STACEY R SMITH | Account

| | October 6, 2016 to November 3, 2016

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**Your savings account**

Account number:

**Your Regular Savings**

STACEY R SMITH

**Account summary**

Beginning balance on October 6, 2016	-\$1.50
Deposits and other additions	470.70
Withdrawals and other subtractions	-469.20
Service fees	-35.00
<b>Ending balance on November 3, 2016</b>	<b>-\$35.00</b>

**Deposits and other additions**

Date	Description	Amount
10/12/16	Online Banking transfer from CHK 7239 Confirmation# 7327000223	5.50
10/13/16	BKOFAMERICA MOBILE 10/13 3486437037 DEPOSIT *MOBILE MI	365.20
10/26/16	Online Banking transfer from CHK 7239 Confirmation# 2247783887	100.00
<b>Total deposits and other additions</b>		<b>\$470.70</b>

**Withdrawals and other subtractions**

Date	Description	Amount
10/17/16	Online Banking transfer to CHK 7239 Confirmation# 2356181363	-69.00
10/17/16	Online Banking transfer to CHK 7239 Confirmation# 1256207823	-100.00
10/18/16	MI TLR cash withdrawal from SAV 0774	-180.00
10/18/16	Online Banking transfer to CHK 7239 Confirmation# 1283173031	-7.00
10/28/16	Online Banking transfer to CHK 7239 Confirmation# 1365487388	-13.20
10/31/16	OVERDRAFT PROTECTION TO 00005403677239	-4.00
10/31/16	Online Banking transfer to CHK 7239 Confirmation# 2182882462	-60.00
10/31/16	Online Banking transfer to CHK 7239 Confirmation# 3391364873	-35.00
10/31/16	Online Banking transfer to CHK 7239 Confirmation# 2492677794	-1.00
<b>Total withdrawals and other subtractions</b>		<b>-\$469.20</b>

Case 1:16-cv-01381-PLM-RSK ECF No. 2-2 filed 12/01/16 PageID.97 Page 14 of 16

STACEY R SMITH | Account

| October 6, 2016 to November 3, 2016

**Service fees**

Date	Transaction description	Amount
11/03/16	Withdrawal Limit Fee	-30.00
11/03/16	Monthly Maintenance Fee	-5.00
<b>Total service fees</b>		<b>-\$35.00</b>

*Note your Ending Balance already reflects the subtraction of Service Fees.*



STACEY R SMITH | Account # 0054 0367 7239 | October 6, 2016 to November 3, 2016

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Stacey R. Smith  
855 Kalamazoo Ave SE  
Grand Rapids, MI 49507

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United States Court of Appeals  
For the Sixth Circuit  
100 East Fifth Street Room 540  
Potter Stewart U.S. Courthouse  
Cincinnati, Ohio

45202-3988



**UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT**

Deborah S. Hunt  
Clerk

100 EAST FIFTH STREET, ROOM 540  
POTTER STEWART U.S. COURTHOUSE  
CINCINNATI, OHIO 45202-3988

Tel. (513) 564-7000  
[www.ca6.uscourts.gov](http://www.ca6.uscourts.gov)

Filed: January 19, 2017

Stacey R. Smith  
855 Kalamazoo Avenue, S.E.  
Grand Rapids, MI 49507

Re: Case No. 17-1022, *In re: Stacey Smith*  
Originating Case No. : 1:16-cv-01381

Mr. Smith,

The Court has received the enclosed documents from you. These items are being returned to you unfiled. At this time you must fill out the enclosed ifp motion and affidavit that is addressed to this Court and return to this Court by the time specified in the original letter (2/9/17).

Please note that we cannot file or entertain any documents that are addressed to other courts.

Sincerely yours,

s/Cheryl Borkowski  
Case Manager  
Direct Dial No. 513-564-7035



RECEIVED

JAN 30 2017

DEBORAH S. HUNT, Clerk

UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT

IN RE: Stacey R. Smith

855 KALAMAZOO AVE SE  
GRAND RAPIDS, MICHIGAN 49507.  
616-350-5709.

v.

Case No: 17-1022-CB 1:16-cv-1381GEORGE S. BUTH P-11479.  
180 OTTAWA AVE NW  
SUITE NO.: 12200A.  
GRAND RAPIDS, MICHIGAN 49503

## MOTION FOR PAUPER STATUS

I move to waive the payment of the appellate filing fee under Fed. R. App. P. 24 because I am a pauper. This motion is supported by the attached financial affidavit.

The issues which I wish to raise on appeal are:

A Federal question with regards to 28 U.S.C. 2403 (a) the Federal question being: if a state agency is allowed to knowingly use and accept falsified information or a document which causes (self-incrimination) to be used which infringes upon a protected right in a criminal case. Article 17 of the Michigan Constitution? (PRIMA FACIE). EXHIBIT (A) and (B) in question which is (A) a falsified self-incriminating statement by Detective Phillip Swiercz of the Wyoming Police Department which had been knowingly accepted into court by the Honorable: George S. Buth of the 17th Judicial Circuit at a session on 07/22/2015 causing infringement of my protected right pursuant to Article 17 of the Michigan Constitution.

Signed: Date: 01/25/2017Address: 855 Kalamazoo Ave SEGrand Rapids, Michigan 49507.



Stacey R. Smith

855 Kalamazoo Ave SE

Grand Rapids, MI 49507



U.S. Court of Appeals

For the Sixth Circuit

100 East Fifth Street RM 540

Potter Stewart U.S. Courthouse

Cincinnati, Ohio

45202-3988

**RECEIVED**

JAN 30 2017

**DEBORAH S. HUNT, Clerk**

The United States of America.  
 U.S. Court of Appeals.  
 For the Sixth Circuit.  
 100 East Fifth Street, Room 540.  
 Potter Stewart U.S. Courthouse.  
 Cincinnati, Ohio 45202-3988.

**IN RE: STACEY R. SMITH**

**CASE NO.: 1:16-cv-01381.**  
**HON.: PAUL L. MALONEY.**

**PLAINTIFF,****CCA No: 17-1022.****VS.****} Motion to intervene in challenge to constitutionality of law.****28 § U.S.C. 2403.****EXPARTE REQUEST FOR JUDICIAL REVIEW.****28 USC App Fed R App P Rule 44****Rebuttal and request for pardon. The Honorable: Governor Rick Snyder.****GEORGE S. BUTH****DEFENDANT,**


---

Now comes the Plaintiff, per the continuous rejection and confusion by the Honorable Ray Kent. I was initially instructed to submit my documents to Lansing to the Honorable Paul L. Maloney, and then realized that correspondence was coming from the 107 federal building in Kalamazoo, Michigan, while under the impression that the Honorable Ray Kent was in Kalamazoo, Michigan and now only to discover that the Honorable Ray Kent's location is here in Grand Rapids. This court has not been helpful with where I am to submit the pleading, motion, or brief. Not only that with myself not being a Professional Counselor, I can only submit what it is I feel is the detailed information needed for consideration. I am convinced that I am being confused as my pleadings, motions, and briefs are being rejected in an effort to avoid what is pertinent. I am being confused with the technical jargon that is being imposed on me in an effort to dance around the facts. So I am again attempting to resubmit a correct pleading in the fashion that The Honorable Ray Kent requires. In regards to the objection which was submitted, it has officially raised a federal question to be submitted to the Attorney General, (on its face);



In accordance to the requirement to submit an objection which has been submitted within the required 14 days of the Report and Recommendation as informed by Magistrate Judge, The Honorable Ray Kent of The United States District Court, I remit said objection with regard to 28§ U.S.C. 2403 (a) : Case 1:16-cv-1381- A Federal question.

*Pursuant to the duties imposed upon it by virtue of 28 U.S.C. 2403(a), this Court will please certify to the Office of the Attorney General that the constitutionality of an Act of Congress affecting the public interest is herein drawn in question.*

**The Federal question being, if a state agency is allowed to knowingly accept falsified information or a document which causes (self-incrimination) to be used which infringes upon Article 17 of the Michigan Constitution in a criminal case as follows: *Misconduct by George S. Buth.***

**(PRIMA FACIE)**

**EXHIBIT (A) -FALSIFIED SELF-INCRIMINATION BY DETECTIVE SWIERCSZ WITH THE AFFIDAVIT FOR PROBABLE CAUSE FOR FELONY COMPLAINT 62A Judicial District Court: *Misconduct by George Buth by knowingly allowing this document into court.***

**EXHIBIT (B) § 17 Self-incrimination; due process of law; fair treatment at investigations. Sec. 17. No person shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property, without due process of law.** The right of all individuals, firms, corporations and voluntary associations to fair and just treatment in the course of legislative and executive investigations and hearings shall not be infringed. History: Const. 1963, Art. I, § 17, Eff. Jan. 1, 1964. Former constitution: See Const. 1908, Art. II, § 16. *Misconduct by George S. Buth by knowingly allowing my protected right to be infringed upon by Detective Phillip Swiercz of the Wyoming Police Department.*

Whereas, Magistrate Judge Ray Kent indicates that judges are immune from discipline even if the process is in grave error, that it is acceptable in a court of law while the judge is aware or has knowledge of the error?

Also, your Honor, self-incrimination is protected under the fifth amendment of the U.S. Constitution as follows:

Self-Incrimination>

The Fifth Amendment protects criminal defendants from having to testify if they may incriminate themselves through the testimony. A witness may "plead the Fifth" and not answer if the witness believes answering the question may be self-incriminatory.

In the landmark *Miranda v. Arizona* ruling, the United States Supreme Court extended the Fifth Amendment protections to encompass any situation outside of the courtroom that involves the curtailment of personal freedom. 384 U.S. 436 (1966). Therefore, any time that law enforcement takes a suspect into custody, law enforcement must make the suspect aware of all rights. Known as *Miranda rights*, these rights include the right to remain silent, the right to have



**an attorney present during questioning, and the right to have a government-appointed attorney if the suspect cannot afford one.** (Denied court appointed counsel proving indigence.)

If law enforcement fails to honor these safeguards, courts will often suppress any statements by the suspect as violative of the Fifth Amendment's protection against self-incrimination, provided that the suspect has not actually waived the rights. An actual waiver occurs when a suspect has made the waiver knowingly, intelligently, and voluntarily. To determine if a knowing, intelligent and voluntary waiver has occurred, a court will examine the totality of the circumstances, which considers all pertinent circumstances and events. If a suspect makes a spontaneous statement while in custody prior to being made aware of the *Miranda* rights, law enforcement can use the statement against the suspect, provided that police interrogation did not prompt the statement. MY MIRANDA RIGHTS WERE NEVER GIVEN TO ME.

**EXHIBIT (D). Detective Swiercz crossing out the top of the police statement.**

The judge did not take the inconsistencies into consideration when I stated, "after reviewing the case on 11/14/2016, that there was information in the file that I discovered was false and not accurate when I read the Affidavit of Probable Cause for Felony Complaint from 62A District Court from a one Detective Phillip Swiercz from the Wyoming Police Department, that I admitted to the elements that he stipulated in the affidavit". THIS IS NOT TRUE AND DETECTIVE SWIERCZ FALSIFIED THIS DOCUMENT TO PROMPT THE ARREST AND COVICTION THAT I AM CURRENTLY UNDER. Judge Buth over looked the details of the inconsistencies on the dates on the 62A complaint and the police report were Detective Swiercz stated that the occurrence happened on 04/01/2014 on the police report, then put the occurrence date of 06/01/2014 on the 62A Felony Complaint and also stipulated that on 06/01/2014 that I was there at 6pm when I never worked a shift past 5pm. **My start date at the David's house was on 06/13/14. Detective Swiercz alleges the offense occurred (before I ever stepped foot on the property). Please refer to enclosed work schedule. EXHIBIT (F)**

Gross Misconduct by George S. Buth.

George Buth was aware of these inconsistencies along with Defense Counsel. By George Buth having knowledge of this is consistent with his cooperation to corroborate my conviction by not challenging this or bringing it into question to Prosecution or Defense Counsel or challenging the detective's methodology.

I stated how the judge re-stated about the charges in a different manner that did not directly pertain to the exact charge as I then plead guilty involuntarily because of Defense Counsel of 4<sup>th</sup> degree CSC because I realized that I had no way out while Defense Counsel went along with Prosecution and not defending me at all, and then the judge just pushed the case through.

**(NOTE: This occurred off the record as you will see the court reporter entering in a sidebar.)**

I plead guilty, involuntarily because Defense Counsel lied to me and stated, "pleading guilty to CSC 4 that it would not show up on a background check and would only be available to the police and would allow me to get a job without it showing up", which sounded like the only way out of this matter.

The judge should have determined that prosecutor Joshua Kuiper P-66576, purposely misidentified my statement in minute 49:50 of the police interview as a friendship and allowed the prosecutor

to continue a fabricated charge of MCL 750.520C (1) (H), **EXHIBIT ITSELF (N)**, to enforce the greatest possible charge against me as I stated in the police interview as the victim and I having a friendship not relationship. This was done with *malice*. The judge stating, "I DON'T CARE. Charge him with gross indecency", during the deliberations between Prosecution and Defense Counsel before the case began. **CANON 2 (B) of the Michigan Judicial Code of Conduct. Was the judge being respectful?** *Gross misconduct by George S. Buth.*

George Buth should have sanction Prosecution and Defense Counsel pursuant to MCR 6.201 (J). Without a factual predicate that would have otherwise not found me guilty based on what prosecution submitted, while jurisdiction being conferred pursuant to 28 U.S.C. § 2254 (e) (1): In the proceeding instituted by an application for Writ of Habeus Corpus by a person in custody pursuant to the judgment of the state court, a determination of a factual issue made by a state court shall be presumed to be correct. The applicant shall have the burden of rebutting the presumption of correctness by clear and convincing evidence. **EXHIBIT (A) & (B) PRIMA FACIE.**

28 U.S.C. § 2254 (e) (2) (A): The claim relies on- (ii) > a factual predicate *that could not have been previously discovered*, **EXHIBIT (A)**, through the exercise of due diligence; and (B) the facts underlying the claim would be sufficient to establish by clear and convincing evidence that but for constitutional error, no reasonable factfinder would have found the applicant guilty of the underlying offense.

**FORMULA:** MCR 6.108 (C) + (D) + (E) = MCR 6.110 (F) + (H). **EXHIBIT ITSELF (I).**

MCR 6.108: Chapter 6. Criminal Procedure

**(I realized that the formula was in error). (SRS)**

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Last Updated January 12, 2017

(C)The probable cause conference shall include discussions regarding a possible plea agreement and other pretrial matters, including bail and bond modification.

PLUS

(D) The district court judge must be available during the probable cause conference to take pleas, consider requests for modification of bond, and if requested by the prosecutor, take the testimony of a victim.

PLUS



(E) The probable cause conference for codefendants who are arraigned at least 72 hours before the probable cause conference shall be consolidated and only one joint probable cause conference shall be held unless the prosecuting attorney consents to the severance, a defendant seeks severance by motion and it is granted, or one of the defendants is unavailable and does not appear at the hearing.

IS EQUAL TO: MCR 6.110 (F) + (H)

#### RULE 6.110 THE PRELIMINARY EXAMINATION

(F) Discharge of Defendant.

No Finding of Probable Cause. If, after considering the evidence, the court determines that probable cause does not exist to believe either that an offense has been committed or that the defendant committed it, the court must discharge the defendant without prejudice to the prosecutor initiating a subsequent prosecution for the same offense or reduce the charge to an offense that is not a felony. Except as provided in MCR 8.111(C), the subsequent preliminary examination must be held before the same judicial officer and the prosecutor must present additional evidence to support the charge.

PLUS

(H) Motion to Dismiss. If, on proper motion, the trial court finds a violation of sub rule (C), (D), (E), or (F), it must either dismiss the information or remand the case to the district court for further proceedings.

Prosecution has a duty of disclosure to which it failed to do so in violation to MCR 6.201 (J).

1. MCR 6.201 (A) (2) MANDATORY DISCLOSURE – If anything was withheld with reason by prosecution, prosecution should have exercised rule and properly notified Defense Counsel. Prosecution, to my knowledge, did not. Said DVD in question that detective Swiercz stated of a video caption from a nanny cam but was not presented or entered as evidence while purposely ignoring Defense Counsel's Discovery Motion. Judge Butth was also aware of this and did not challenge this to prosecution. Outside of this, there would not have been any other witnesses who would testify stating that they witness me commit said offense in question. All the witnesses submitted would not have been able to

testify, THAT THEY ACTUAULLY WITNESS ME COMMIT SAID OFFENSE. Judge Butth failed to recognize this with knowledge of prosecution fabricating the charge of MCL 750.520 (C) (1) (H). Without an actual witness to state that they actually witness me commit said offense in question and prosecution failing to provide the DVD in question from said nanny cam in question which would have left prosecution without a basis for my arrest and my Defense Counsel failing to move to dismiss during a probable cause conference for examination before a trial because of corroboration which should prove all three in orchestration of my wrongful conviction by means of self-incrimination by Judge Butth, Prosecution, and Defense Counsel.

## SUBCHAPTER

### 6.200 DISCOVERY RULE

#### 6.201 DISCOVERY

(A) Mandatory Disclosure. In addition to disclosures required by provisions of law other than MCL 767.94a, a party upon request must provide all other parties:

- (1) the names and addresses of all lay and expert witnesses whom the party may call at trial; in the alternative, a party may provide the name of the witness and make the witness available to the other party for interview; the witness list may be amended without leave of the court no later than 28 days before trial;
- (2) any written or recorded statement, including electronically recorded statements, pertaining to the case by a lay witness whom the party may call at trial, except that a defendant is not obliged to provide the defendant's own statement;
- (3) the curriculum vitae of an expert the party may call at trial and either are port by the expert or a written description of the substance of the proposed testimony of the expert, the expert's opinion, and the underlying basis of that opinion;
- (4) any criminal record that the party may use at trial to impeach a witness;



(5) a description or list of criminal convictions, known to the defense attorney or prosecuting attorney, of any witness whom the party may call at trial; and

Chapter 6. Criminal Procedure

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Last Updated January 23, 2017

(6) a description of and an opportunity to inspect any tangible physical evidence (DVD in question), that the party may introduce at trial, including any document, photograph, or other paper, with copies to be provided on request. A party may request a hearing regarding any question of costs of reproduction, including the cost of providing copies of electronically recorded statements. On good cause shown, the court may order that a party be given the opportunity to test without destruction any tangible physical evidence.

(B) Discovery of Information Known to the Prosecuting Attorney. Upon request, the prosecuting attorney must provide each defendant:

Which Defense Counsel failed to do.

**(1) any exculpatory information or evidence known to the prosecuting attorney;**

**(2) any police report and interrogation records concerning the case, except so much of a report as concerns a continuing investigation;**

(3) any written or recorded statements, including electronically recorded statements, (DVD in question), by a defendant, codefendant, or accomplice pertaining to the case, even if that person is not a prospective witness at trial;

(4) any affidavit, warrant, **(Falsified 62A affidavit by Detective Swiercz)**, and return pertaining to a search or seizure in connection with the case; and

(5) any plea agreement, grant of immunity, or other agreement for testimony in connection with the case.

(C) Prohibited Discovery.

(1) Notwithstanding any other provision of this rule, there is no right to discover information or evidence that is protected from disclosure by constitution, statute, or privilege, including information or evidence

**(2) protected by a defendant's right against self-incrimination, except as provided in sub rule (2).**

**(2) If a defendant demonstrates a good-faith belief, grounded in articulable fact, that there is a reasonable probability that records protected by privilege are likely to contain material information necessary to the defense, the trial court shall conduct an in camera inspection of the records.**

**(a) If the privilege is absolute, and the privilege holder refuses to waive the privilege to permit an in camera inspection, the trial court shall suppress or strike the privilege holder's testimony.**

(b) If the court is satisfied, following an in camera inspection, that the records reveal evidence necessary to the defense, the court shall direct that such evidence as is necessary to the defense be made available to defense counsel. If the privilege is absolute and the privilege holder refuses to waive the privilege to permit disclosure, the trial court shall suppress or strike the privilege holder's testimony.

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**(c) Regardless of whether the court determines that the records should be made available to the defense, the court shall make findings sufficient to facilitate meaningful appellate review.**

**(d) The court shall seal and preserve the records for review in the event of an appeal**

**(i) by the defendant, on an interlocutory basis or following conviction, if the court determines that the records should not be made available to the defense, or**



(ii) by the prosecution, on an interlocutory basis, if the court determines that the records should be made available to the defense.

(e) Records disclosed under this rule shall remain in the exclusive custody of counsel for the parties, shall be used only for the limited purpose approved by the court, and shall be subject to such other terms and conditions as the court may provide.

(D) Excision. When some parts of material or information are discoverable and other parts are not discoverable, the party must disclose the discoverable parts and may excise the remainder. The party must inform the other party that non discoverable information has been excised and withheld. On motion, the court must conduct a hearing in camera to determine whether the reasons for excision are justifiable. If the court upholds the excision, it must seal and preserve the record of the hearing for review in the event of an appeal.  
EXHIBIT (D).

(E) Protective Orders. On motion and a showing of good cause, the court may enter an appropriate protective order. In considering whether good cause exists, the court shall consider the parties' interests in a fair trial; the risk to any person of harm, undue annoyance, intimidation, embarrassment, or threats; the risk that evidence will be fabricated; and the need for secrecy regarding the identity of informants or other law enforcement matters. On motion, with notice to the other party, the court may permit the showing of good cause for a protective order to be made in camera. If the court grants a protective order, it must seal and preserve the record of the hearing for review in the event of an appeal.

(F) Timing of Discovery. Unless otherwise ordered by the court, the prosecuting attorney must comply with the requirements of this rule within 21 days of a request under this rule and a defendant must comply with the requirements of this rule within 21 days of a request under this rule.

(G) Copies. Except as ordered by the court on good cause shown, a party's obligation to provide a photograph or paper of any kind is satisfied by providing a clear copy.

(H) Continuing Duty to Disclose. If at any time a party discovers additional information or material subject to disclosure under this rule, the party, without further request, must promptly notify the other party.

Chapter 6. Criminal Procedure  
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(I) Modification. On good cause shown, the court may order a modification of the requirements and prohibitions of this rule.

*(J) Violation. If a party fails to comply with this rule, the court, in its discretion, may order the party to provide the discovery or permit the inspection of materials not previously disclosed, grant a continuance, and prohibit the party from introducing in evidence the material not disclosed, or enter such other order as it deems just under the circumstances. Parties are encouraged to bring questions of noncompliance before the court at the earliest opportunity. Willful violation by counsel of an applicable discovery rule or an order issued pursuant thereto may subject counsel to appropriate sanctions by the court. An order of the court under this section is reviewable only for abuse of discretion. Gross misconduct by Judge Buth.* Also your Honor please refer to MCL 600.2163 (a). Provided.

(K) Except as otherwise provided in MCR 2.302(B)(6), electronic materials are to be treated in the same manner as non electronic materials under this rule. Nothing in this rule shall be construed to conflict with MCL 600.2163a.

**FORMULA:**

(PROSECUTION)      (DEFENSE COUNSEL)

MCR 6.110 (D1) + (2a) + (2b) + (2c) (E) = MCR 6.201 (b2) + (b5) = MCR 6.201 (b2) + (b5)

In conjunction with MCR 6.201 (B) 1-5, Judge Buth knowingly allowed prosecution to use EXHIBIT (A) while falsified by Detective Swiercz of the Wyoming Police Department to be used in the fashion of self-incrimination while being aware of my denial of the allegations 3 times in, EXHIBIT (D), the police interview. Misconduct of George S. Buth.

The above formula should be equal to: MCR 6.201 (J) = VIOLATION. **EXHIBIT ITSELF (J).**



George Buth did not challenge the failure of prosecution failing to respond to Defense Counsel's Discovery Motion and causing self-incrimination and infringement to the Fifth Amendment and Article 17 of the Michigan Constitution, nor compliance with said Michigan Court Rule. Misconduct by George S. Buth.

Defense Counsel should have had me discharged through a Dismissal Motion during the Probable Cause Conference that I was deprived of by Defense Counsel after confirming that all of the witnesses listed did not actually witness me commit said offense in question, and through Prosecution failing to provide said DVD in question that Detective Swiercz stated was in his possession during the police interview where Defense Counsel failed to subpoena said DVD in question after Prosecution ignored Defense Counsel's Discovery Motion while also Defense Counsel failing to move for a Probable Cause Conference and issued a subpoena where Prosecution would not have any other evidence to hold me against said allegation. Misconduct of George S. Buth.

#### **FORMULA:**

MCR 6.108 (A) + MCR 6.110 (A) + (C) + (D) + (D1) + (D2) = MCR 6.110 (E) + (F) + (H)

Pursuant to MCR 6.110 (D) (1), The court shall allow the prosecutor and defendant to subpoena and call witnesses from whom hearsay testimony was introduced on a satisfactory showing that live testimony will be relevant. Judge Buth, while being aware of the prosecution failing to comply with Defense Counsel's Discovery Motion, allowed the proceeding to commence without proper sanctions pursuant to MCR 6.201 (J) to prosecution and Defense Counsel. While Defense Counsel failed to have a probable cause conference and a subpoena to examine evidence mainly the DVD in question, before the Preliminary Examination, Judge Buth being aware that Prosecution ignored Defense Counsel's Discovery Motion and did not sanction Prosecution or Defense Counsel pursuant to said rule. Also your Honor, a letter of intent was not filed or Defense Counsel to my knowledge had not been notified by "A Notice of Intent" for Detective Swiercz, Kyle the victim's brother or any one listed as a witness filed with the court to inform myself or Defense Counsel of Prosecutions' intent to use support witnesses to testify that any of the witnesses ACTUALLY WITNESSED ME COMMIT SAID OFFENSE WITH THEIR OWN EYES pursuant to MCL 600.2163 (a) (4) as follows: (Victim is disabled which compounded everyone's motive to destroy my life).

Sec. 2163a.

*(4) A witness who is called upon to testify shall be permitted to have a support person sit with, accompany, or be in close proximity to the witness during his or her testimony. A notice of intent to use a support person shall name the support person, identify the relationship the support person has with the witness, and give notice to all parties to the proceeding that the witness may request that the named support person sit with the witness when the witness is called upon to testify during any stage of the proceeding. The notice of intent to use a named support person shall be filed with the court and shall be served upon all parties to the proceeding. The court shall rule on a motion*

*objecting to the use of a named support person before the date at which the witness desires to use the support person.*

EXHIBIT (A) is a falsified document whereas Detective Swiercz stated that I admitted to the allegations stipulated in the police interview, while in the police interview I denied said allegations 3 times in minutes 19:45, 41:35, and 1:01:10. And coercion used by Detective Phillip Swiercz on minutes 33:48, 37:57, and 1:04:40 to entrap me into court in cooperation, not collaboration, by Pablo Cortes P-53757, Joshua Kuiper P-66576, Kevin Bramble P-38380, George S. Buth P-11479, and Defense Counsel P-34095 with malice. Defense Counsel being aware of this along with George S. Buth and either never challenging or bringing into question the detectives methodology while denying me due process of law. Misconduct of George S. Buth.

#### JURISDICTION AND VENUE.

Jurisdiction is conferred by MCL 600.4401, (Mandamus against state officials: The Honorable George S. Buth P-11479 (Presiding Judge), Joshua Kuiper P-66576 (Prosecutor)(Primary), Kevin Bramble P-38380 (Prosecutor) (Primary), Chris Becker P-53752 (Prosecutor), Pablo Cortes P-53757 (Presiding Judge at 62A Judicial District Court were proceedings originated), and Defense Counsel John R. Beason P-34095.

Jurisdiction is also conferred by MCR 3.305 (A) (1), MCR 3.303 (A), MCR 3.303 (A) (2), and MCR 3.303 (C) 1-7, MCR 3.303 (F) (1) (a), MCR 3.303 (F) (2). Jurisdiction is proper as the protected status of Article § 17 of the Michigan Constitution of 1963: **(PRIMA FACIE)**

**EXHIBIT (A) -FALSIFIED SELF-INCRIMINATION BY DETECTIVE SWIERCSZ WITH THE AFFIDAVIT FOR PROBABLE CAUSE FOR FELONY COMPLAINT 62A Judicial District Court:**

**EXHIBIT (B) § 17 Self-incrimination; due process of law; fair treatment at investigations.**  
 Sec. 17. **No person shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property, without due process of law.** The right of all individuals, firms, corporations and voluntary associations to fair and just treatment in the course of legislative and executive investigations and hearings shall not be infringed. History: Const. 1963, Art. I, § 17, Eff. Jan. 1, 1964. Former constitution: See Const. 1908, Art. II, § 16.

-Were relief is sought pursuant to said article, and pursuant to 28 U.S.C. § 2254 for Writ of Habeas Corpus: A Petition for Relief from Conviction Sentence, were Proof of Service has been satisfied to the Honorable George S. Buth P-11479 and also under above case number 1:16-cv-1381; U.S. District Court 113 Federal Building 315 West Allegen Street Lansing, Michigan 48933 before the Honorable Paul L. Maloney were jurisdiction is also conferred pursuant to MCR 3.303 (F) (1) (A).



## FACTS AND CONTINUATION OF JURISDICTION AND VENUE.

28 U.S.C. § 2254 (d) (2) stipulates that:

(d)- An application for Writ of Habeus Corpus on behalf of a person in custody, (M.D.O.C.: 961806), pursuant to the judgment of the state court shall be granted with respect to any claim that was adjudicated on the merits in the state court proceedings unless the adjudication of the claim- (2): resulted in a decision that was based on, **EXHIBITS (A) (C) (D) (E) & (F), an unreasonable determination of facts** in light of the evidence presented, (or lack thereof), in the state court proceeding.

**EXHIBIT (A) (C) (D) & (F) - after reviewing the case on 11/14/2016, that there was information in the file that I discovered was false and not accurate when I read the Affidavit of Probable Cause For Felony Complaints from the 62A District court from a one Detective Swiercz from the Wyoming Police Department stating that I admitted to the elements that he stipulated in the affidavit. THIS IS NOT TRUE AND HE FALSIFIED THIS DOCUMENT TO PROMPT THE ARREST AND CONVICTION THAT I AM CURRENTLY UNDER. After discovery of this document to which I never seen or had knowledge of before or during the case or hearing, it clearly reveals to me that Mr. Joshua Kuiper along with especially Detective Swiercz set out on a campaign to entrap me and destroy my life with malice.**

**EXHIBIT (C) & (E) -In regards to the Felony Complaint, IF YOU WERE TO NOTICE THAT THE DATE OF OCCURENCE DET SWIERCZ PUT ON THE COMPLAINT WAS 04/01/14 AND THEN HE DATED IT FOR 06/01/14. BE ADVISE YOUR HONOR, I DID NOT START THE DAVID'S HOUSE UNTIL 06/13/14 WHICH WAS MY ORIENTATION DATE. THIS IS INCONSISTENT. HE ALSO STATED THAT I WAS THERE ON 06/01/14 AT 18:01 OR 6PM. I NEVER WORKED A SHIFT PASSED 5PM. THIS IS ALSO INCONSISTENT AND MY DEFENSE COUNSEL WAS AWARE AND JUST BRUSHED IT ASIDE WITH OUT CHALLENGING IT. (PLEASE REFER TO WORK SCHEDULE ENCLOSED.) EXHIBIT (F).**

28 U.S.C. § 2254 (e) (1): In the proceeding instituted by an application for Writ of Habeus Corpus by a person in custody pursuant to the judgment of the state court, a determination of a factual issue made by a state court shall be presumed to be correct. The applicant shall have the burden of rebutting the presumption of correctness by clear and convincing evidence. **EXHIBIT (B) PRIMA FACIE.**

28 U.S.C. § 2254 (e) (2) (A): The claim relies on- (ii) > a factual predicate that could not have been previously discovered, **EXHIBIT (A)**, through the exercise of due diligence; and (B) the facts underlying the claim would be sufficient to establish by clear and convincing evidence that but for constitutional error, no reasonable factfinder would have found the applicant guilty of the underlying offense.

PARTIES.

1. Plaintiff is now Stacey R. Smith under state custody through the Michigan Department of Corrections, hereinafter referred to as M.D.O.C. number 961806 from the session held in the 17<sup>th</sup> Judicial Circuit Court heard by the Defendant the Honorable George S. Buth P-11479 presiding judge now the defendant in case no.: 14-11012-FH under an involuntary guilty plea by defense counsel John R. Beason P-34095.
2. The Kent County Prosecutors Office and the prosecutors involved are Joshua Kuiper P-66576 (Prosecutor) (Primary), Kevin Bramble P-38380 (Prosecutor) (Primary), Chris Becker P-53752 (Prosecutor), along with the Honorable Pablo Cortes P-53757 of the 62A Judicial District Court to where the case originated in cooperation, not collaboration, with Detective Swiercz of the Wyoming Police Department. Also your Honor, please be advised that the Honorable Pablo Cortes is also the Vice Chair of the Judicial Tenure Commission to where a pending investigation is in progress for judicial misconduct: JTC:16-22385. The most proper jurisdiction for plaintiff's actions in this matter falls directly to 28 U.S.C. § 2254 (b1) subsection (bii) as follows:

**ITEMIZATION OF DETAILS IN POLICE INTERVIEW:**

**MINUTES:**

**19:45 – DENIED ALLEGATIONS.**

**20:58 - DETECTIVE AFFIRMING VICTIM'S COGNITION.**

**22:50 – POLICY (NO).**

**25:10 – CATHETER.**

**25:45 – COGNITION.**

**25:35 – DETECTIVE STATES HE WILL BE RIGHT BACK AND RETURNS WITH BLANK DVD IN AN EFFORT TO COMPOUND COERCION AND ENTRAPMENT.**

**33:20 – DVD PLACED ON DESK.**

**33:48 – ACT OF COERCION AND ENTRAPMENT.**

**35:54 – VICTIM STATES HE WAS NOT APPAULED BY THIS WHICH INFERS THAT SOMEONE ELSE WAS IMPLIES THAT THE ALLEGED ACT WAS UNWANTED.**

**39:09 – HE IMPLIED TOUCHING.**



**41:35 – SECOND DENIAL TO ALLEGED CHARGES.**

**41:58 – I IMPLIED CHEEK TO CHEEK**

**42:50 – I STATE THAT THE VICTIM WAS THE PERSISTANT INITIANT.**

**43:46 – THE SAME AS MINUTE 42:50 VICTIM WAS PERSISTANT INITIANT.**

**45:53 – I DID NOT BRING THIS UP.**

**EXHIBIT (N) 49:50 – I IDENTIFIED THE INCIDENT AS A FRIENDSHIP NOT  
RELATIONSHIP. THE DETECTIVE AND PROSECUTOR USED THIS TO  
MISCONSTRUE THIS TO MAKE IT APPEAR AS A RELATIONSHIP TO FALL  
UNDER MCL 750.520 C (1) (H).**

**48:45 – DETECTIVE SWIERCZ USING MISLEADING STATEMENTS IN AN EFFORT  
TO COERCE AND ENTRAP.**

**50:35 – CHECKING CATHETER.**

**52:03 – THE DETECTIVE STATING THAT THERE WAS A NANNY CAM WHICH  
PROMPTED THE DISCOVERY MOTION BY DEFENSE COUNSEL AND WAS NOT  
PRODUCED BY PROSECUTION.**

**53:33 – DETECTIVE NOT BEING TRUTHFUL BY GIVING ME THE IMPRESSION  
THAT PROSECUTION WOULD DECIDE THE CHARGES AS HE WAS THE ON I  
DISCOVERED FILE THE PROBABLE CAUSE COMPLAINT WHICH TRIGGERED  
ARREST AND CONVICTION. (ENTRAPMENT).**

**1:01:10 – 3<sup>RD</sup> DENIAL OF ALLEGED CHARGES.**

**1:04:40 – MISCONSTRUED COERCION.**

**In summary, your Honor, I denied the charges 3 times on minutes 19:45, 41:35, and  
1:01:10 and coercion was used by Detective Swiercz on minutes 33:48, 37:57, and 1:04:40.**

WHEREAS THE PLAINTIFF, prays for complete relief and exoneration of this conviction if it so convinces this honorable court. Under the United States Constitution Art. III § 2, this court has jurisdiction because the rights sought to be protected herein are secured by the United States Constitution at a session in the 17<sup>th</sup> Judicial Circuit Court on 07/22/2015 – Case number 14-11012-FH.

Jurisdiction is proper pursuant to 28 U.S.C. § 1361 under which this court, **this court your honor**, has the power to **compel an officer of the United States to perform his duty**. The District Court to execute mandamus to either the Michigan Court of Appeals, The U. S. Court of Appeals, The Judicial Tenure Commission, The Attorney Grievance Commission, the U. S. Attorney General, the Michigan State Attorney General, but not limited to the defendant or the Kent County

Prosecutor's Office or to whomever the Federal Judge deems as necessary or proper to come a resolve.

Also, your Honor, you stated that the District court does not have the authority to issue Mandamus in a State Court Proceeding while 28 U.S.C. § 1361 stipulates the following:

**§1361. Action to compel an officer of the United States to perform his duty**

**The district courts shall have original jurisdiction of any action in the nature of mandamus to compel an officer or employee of the United States or any agency thereof to perform a duty owed to the plaintiff.**

**(Added Pub. L. 87-748, §1(a), Oct. 5, 1962, 76 Stat. 744.)**

**Which causes me to question your willingness to be fair and impartial. I respectfully request that you review and re-consider you decision in your recent report and recommendation.**

Also, your honor, please also be advised that retaliation is imminent after your decision.

/s/ Mr. Stacey R. Smith

Mr. Stacey R. Smith  
855 Kalamazoo Ave SE  
Grand Rapids, Michigan 49507.  
616-350-5709.

01/25/2017.

## PROOF OF SERVICE.

U.S. District Court for the Western District of Michigan.  
399 Federal Building  
110 Michigan Ave NW  
Grand Rapids, Michigan 49503.

1:16-cv-1381  
HON.: Paul L. Maloney.

The Honorable: George S. Buth P-11479.  
Kent County Courthouse.  
Suite No.: 12200A.  
180 Ottawa Ave NW  
Grand Rapids, Michigan 49503.  
616-632-5020.

Governor Rick Snyder.  
P.O. Box 30013  
Lansing, Michigan 48909.

The United States Department of Justice.  
The United States Attorney General.  
The Honorable: Mrs. Loretta Lynch.  
950 Pennsylvania Ave NW  
Washington D.C. 20530-0001.  
202-514-2000. V.

Michigan State Attorney General's Office.  
Michigan State Attorney General.  
The Honorable: Mr. William Schuette.  
G. Mennen Williams Building, 7<sup>th</sup> Floor.  
525 W Ottawa ST.  
P.O. Box 30212.  
Lansing, Michigan 48909.  
517-373-1110 V.  
517-373-3042 F.

JTC No.: 16-22385.  
AGC No.: 16-1551.

(THE JUDICIAL TENURE COMMISSION) (ATTORNEY GREIVANCE COMMISSION).  
3044 W. Grand Blvd  
Detroit, Michigan 48202.  
313-875-5110. V.  
313-875-5154. F.

Buhl Building LLC.  
535 Griswold St.  
Detroit, Michigan 48226.  
313-961-6585. V.

The White House.  
The President of the United States of America.  
1600 Pennsylvania Ave NW  
Washington, DC 20500.  
202-456-1414.

U.S. District Court.  
ATTENTION: Magistrate Judge: Ray Kent.  
113 Federal Building.  
315 West Allegen St.  
Lansing, Michigan 48933.

Michigan Court of Appeals  
350 Ottawa Ave NW  
Grand Rapids, Michigan  
49503

U.S. District Court.  
107 Federal Building.  
401 W. Michigan Ave.  
Kalamazoo, Michigan 49007.



**PROOF OF SERVICE.**

**To the above mentioned and to the:**

**Honorable: George S. Buth.**

**As required and informed by:**

**The Court Clerk of the**

**U.S. District Court.  
113 Federal Building  
315 West Allegen Street.**

**Lansing, Michigan 48933.**

**Sixth Circuit Court of Appeals  
Potter Stewart U.S. Courthouse  
100 East Fifth Street  
Cincinnati, Ohio 45202  
Phone: (513) 564-7000**

**CCA: 17-1022.**

**PROOF OF SERVICE.**

**I certify under the penalty of perjury of the United States of America and State of Michigan, that I mailed a true copy of this document to the addresses above on this 25th day of January 2017 A.D. by US first class mail.**



**SIGNATURE OF MR. STACEY R. SMITH ONLY.**



**Rule 44. Case Involving a Constitutional Question When the United States or the Relevant State is Not a Party**

(a) Constitutional Challenge to Federal Statute. If a party questions the constitutionality of an Act of Congress in a proceeding in which the United States or its agency, officer, or employee is not a party in an official capacity, the questioning party must give written notice to the circuit clerk immediately upon the filing of the record or as soon as the question is raised in the court of appeals. The clerk must then certify that fact to the Attorney General.

(b) Constitutional Challenge to State Statute. If a party questions the constitutionality of a statute of a State in a proceeding in which that State or its agency, officer, or employee is not a party in an official capacity, the questioning party must give written notice to the circuit clerk immediately upon the filing of the record or as soon as the question is raised in the court of appeals. The clerk must then certify that fact to the attorney general of the State.

(As amended Apr. 24, 1998, eff. Dec. 1, 1998; Apr. 29, 2002, eff. Dec. 1, 2002.)

**Notes of Advisory Committee on Rules-1967**

This rule is now found in the rules of a majority of the circuits. It is in response to the Act of August 24, 1937 (28 U.S.C. §2403), which requires all courts of the United States to advise the Attorney General of the existence of an action or proceeding of the kind described in the rule.

**Committee Notes on Rules-1998 Amendment**

The language of the rule is amended to make the rule more easily understood. In addition to changes made to improve the understanding, the Advisory Committee has changed language to make style and terminology consistent throughout the appellate rules. These changes are intended to be stylistic only.

**Committee Notes on Rules-2002 Amendment**

Rule 44 requires that a party who "questions the constitutionality of an Act of Congress" in a proceeding in which the United States is not a party must provide written notice of that challenge to the clerk. Rule 44 is designed to implement 28 U.S.C. §2403(a), which states that: "In any action, suit or proceeding in a court of the United States to which the United States or any agency, officer or employee thereof is not a party, wherein the constitutionality of any Act of Congress affecting the public interest is drawn in question, the court shall certify such fact to the Attorney General, and shall permit the United States to intervene . . . for argument on the question of constitutionality."

The subsequent section of the statute-§2403(b)-contains virtually identical language imposing upon the courts the duty to notify the attorney general of a state of a constitutional challenge to any statute of that state. But §2403(b), unlike §2403(a), was not implemented in Rule 44.

Rule 44 has been amended to correct this omission. The text of former Rule 44 regarding constitutional challenges to federal statutes now appears as Rule 44(a), while new language regarding constitutional challenges to state statutes now appears as Rule 44(b).

*Changes Made After Publication and Comments.* No changes were made to the text of the proposed amendment or to the Committee Note.

#### Rule 24. Intervention

(a) Intervention of Right. Upon timely application anyone shall be permitted to intervene in an action: (1) when a statute of the United States confers an unconditional right to intervene; or (2) when the applicant claims an interest relating to the property or transaction which is the subject of the action and the applicant is so situated that the disposition of the action may as a practical matter impair or impede the applicant's ability to protect that interest, unless the applicant's interest is adequately represented by existing parties.

(b) Permissive Intervention. Upon timely application anyone may be permitted to intervene in an action: (1) when a statute of the United States confers a conditional right to intervene; or (2) when an applicant's claim or defense and the main action have a question of law or fact in common. When a party to an action relies for ground of claim or defense upon any statute or executive order administered by a federal or state governmental officer or agency or upon any regulation, order, requirement, or agreement issued or made pursuant to the statute or executive order, the officer or agency upon timely application may be permitted to intervene in the action. In exercising its discretion the court shall consider whether the intervention will unduly delay or prejudice the adjudication of the rights of the original parties.

(c) Procedure. A person desiring to intervene shall serve a motion to intervene upon the parties as provided in Rule 5. The motion shall state the grounds therefor and shall be accompanied by a pleading setting forth the claim or defense for which intervention is sought. The same procedure shall be followed when a statute of the United States gives a right to intervene.

(As amended Dec. 27, 1946, eff. Mar. 19, 1948; Dec. 29, 1948, eff. Oct. 20, 1949; Jan. 21, 1963, eff. July 1, 1963; Feb. 28, 1966, eff. July 1, 1966; Mar. 2, 1987, eff. Aug. 1, 1987; Apr. 30, 1991, eff. Dec. 1, 1991; Apr. 12, 2006, eff. Dec. 1, 2006.)



December 1, 2016 1:41 PM

FILED GR  
CLERK OF COURT  
U.S. DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
BY: kvl/ Scanned: kw 12/5

Judicial Council of the 6TH Circuit

1:16-cv-1381

Paul L. Maloney

COMPLAINT OF JUDICIAL MISCONDUCT OR DISABILITY United States District Judge

To begin the complaint process, complete this form and prepare the brief statement of facts described in item 5 (below). The RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS, adopted by the Judicial Conference of the United States, contain information on what to include in a complaint (Rule 6), where to file a complaint (Rule 7), and other important matters. The rules are available in federal court clerks' offices, on individual federal courts' Web sites, and on [www.uscourts.gov](http://www.uscourts.gov).

Your complaint (this form and the statement of facts) should be typewritten and must be legible. For the number of copies to file, consult the local rules or clerk's office of the court in which your complaint is required to be filed. Enclose each copy of the complaint in an envelope marked "COMPLAINT OF MISCONDUCT" or "COMPLAINT OF DISABILITY" and submit it to the appropriate clerk of court. **Do not put the name of any judge on the envelope.**

1. Name of Complainant: MR. STACEY R. SMITH  
Contact Address: 855 KALAMAZOO AVE SE  
GRAND RAPIDS, MICHIGAN 49507  
Daytime telephone: ( 616 ) 350-5709

2. Name(s) of Judge(s): THE HONORABLE: GEORGE S. BUTH P-11479.  
Court: 17TH JUDICIAL CIRCUIT COURT.

3. Does this complaint concern the behavior of the judge(s) in a particular lawsuit or lawsuits?

☒ Yes ☐ No

If "yes," give the following information about each lawsuit:

Court: 1411012-FH

Case Number: 1411012-FH

Docket number of any appeal to the \_\_\_\_ Circuit: \_\_\_\_\_

Are (were) you a party or lawyer in the lawsuit?

☒ Party ☐ Lawyer ☐ Neither

AO 89B (07/16) Subpoena to Produce Documents, Information, or Objects in a Criminal Case

## UNITED STATES DISTRICT COURT

for the

Western District of Michigan

United States of America )

v. )

George S. Buth P-11479. )

Case No. 1:16-cv-1381 CCA: 17-1022.

Defendant )

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR  
OBJECTS IN A CRIMINAL CASE

To: KENT COUNTY PROSECUTORS OFFICE P-66576. 82 IONIA AVE NW GRAND RAPIDS MICHIGAN 49503.

(Name of person to whom this subpoena is directed)

**YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following books, papers, documents, data, or other objects:

EVIDENCE PURSUANT TO ABOVE CASE NUMBER. ALL OTHER EVIDENCE FROM THE PROSECUTOR INCLUDING BUT NOT LIMITED TO ALL MEDIA, CD'S, DVD'S, PAPER DOCUMENTS, TESTIMONY, DEPOSITIONS.

Place: 107 Federal Building 410 W Michigan Ave  
Kalamazoo, Michigan 49007.

Date and Time:

Certain provisions of Fed. R. Crim. P. 17 are attached, including Rule 17(c)(2), relating to your ability to file a motion to quash or modify the subpoena; Rule 17(d) and (e), which govern service of subpoenas; and Rule 17(g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

(SEAL)

Date: \_\_\_\_\_

CLERK OF COURT

Signature of Clerk or Deputy Clerk

The name, address, e-mail, and telephone number of the attorney representing (name of party) DEFENSE COUNSEL AT P-34095. John R. Beason 15 Ionia Ave Grand Rapids, Michigan 49503., who requests this subpoena, are:

MR. STACEY R. SMITH (Now Palintiff Pro Se in Forma Pauperis).

**Notice to those who use this form to request a subpoena**

Before requesting and serving a subpoena pursuant to Fed. R. Crim. P. 17(c), the party seeking the subpoena is advised to consult the rules of practice of the court in which the criminal proceeding is pending to determine whether any local rules or orders establish requirements in connection with the issuance of such a subpoena. If no local rules or orders govern practice under Rule 17(c), counsel should ask the assigned judge whether the court regulates practice under Rule 17(c) to 1) require prior judicial approval for the issuance of the subpoena, either on notice or ex parte; 2) specify where the documents must be returned (e.g., to the court clerk, the chambers of the assigned judge, or counsel's office); and 3) require that counsel who receives produced documents provide them to opposing counsel absent a disclosure obligation under Fed. R. Crim. P. 16.

Please note that Rule 17(c) (attached) provides that a subpoena for the production of certain information about a victim may not be issued unless first approved by separate court order.

**Federal Rule of Criminal Procedure 17 (c), (d), (e), and (g) (Effective 12/1/08)****(c) Producing Documents and Objects.**

**(1) In General.** A subpoena may order the witness to produce any books, papers, documents, data, or other objects the subpoena designates. The court may direct the witness to produce the designated items in court before trial or before they are to be offered in evidence. When the items arrive, the court may permit the parties and their attorneys to inspect all or part of them.

**(2) Quashing or Modifying the Subpoena.** On motion made promptly, the court may quash or modify the subpoena if compliance would be unreasonable or oppressive.

**(3) Subpoena for Personal or Confidential Information About a Victim.** After a complaint, indictment, or information is filed, a subpoena requiring the production of personal or confidential information about a victim may be served on a third party only by court order. Before entering the order and unless there are exceptional circumstances, the court must require giving notice to the victim so that the victim can move to quash or modify the subpoena or otherwise object.

**(d) Service.** A marshal, a deputy marshal, or any nonparty who is at least 18 years old may serve a subpoena. The server must deliver a copy of the subpoena to the witness and must tender to the witness one day's witness-attendance fee and the legal mileage allowance. The server need not tender the attendance fee or mileage allowance when the United States, a federal officer, or a federal agency has requested the subpoena.

**(e) Place of Service.**

**(1) In the United States.** A subpoena requiring a witness to attend a hearing or trial may be served at any place within the United States.

**(2) In a Foreign Country.** If the witness is in a foreign country, 28 U.S.C. § 1783 governs the subpoena's service.

**(g) Contempt.** The court (other than a magistrate judge) may hold in contempt a witness who, without adequate excuse, disobeys a subpoena issued by a federal court in that district. A magistrate judge may hold in contempt a witness who, without adequate excuse, disobeys a subpoena issued by that magistrate judge as provided in 28 U.S.C. § 636(e).



AO 83 (Rev. 06/09) Summons in a Criminal Case

## UNITED STATES DISTRICT COURT

for the

Western District of Michigan

United States of America

v.

MR. STACEY R. SMITH

VS.

George S. Buth P-11479.

Case No. 1:16-cv-1381 CCA:17-1022.

*Defendant*

## SUMMONS IN A CRIMINAL CASE

**YOU ARE SUMMONED** to appear before the United States district court at the time, date, and place set forth below to answer to one or more offenses or violations based on the following document filed with the court:

- ☐ Indictment   
 ☐ Superseding Indictment   
 ☐ Information   
 ☐ Superseding Information   
☒ Complaint  
☐ Probation Violation Petition   
☐ Supervised Release Violation Petition   
☐ Violation Notice   
☐ Order of Court

Place: 107 federal building 410 W. Michigan Ave  
 Kalamazoo, Michigan 49007

Before: The Honorable: Ray Kent.

Date and Time:

This offense is briefly described as follows:

Pursuant to the duties imposed upon it by virtue of 28 U.S.C. 2403(a), this Court will please certify to the Office of the Attorney General that the constitutionality of an Act of Congress affecting the public interest is herein drawn in question. The Federal question being, if a state agency is allowed to (knowingly) accept falsified information or document which causes (self-incrimination) to be used in a which infringes upon Article 17 of the Michigan Constitution in a criminal case? EXHIBIT (A) -FALSIFIED SELF-INCRIMINATION BY DETECTIVE SWIERCSZ WITH THE AFFIDAVIT FOR PROBABLE CAUSE FOR FELONY COMPLAINT 62A Judicial District Court: (MCL 750.520 (C) (1) (H)). Also if the judge is allowed to knowingly accept this in a criminal case and allowed to knowingly accept a fabricated charge.

Date: 01/17/2017

*Issuing officer's signature**Printed name and title*

I declare under penalty of perjury that I have:

- ☐ Executed and returned this summons   
 ☐ Returned this summons unexecuted

Date:

*Server's signature**Printed name and title*

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

STACEY R. SMITH,

Plaintiff,

Case No. 1:16-cv-01381-PLM-RSK

v.

Hon. Paul L. Maloney

GEORGE S. BUTH,

Defendant.

---

**ORDER REJECTING PLEADING**

The Court has examined the following document(s) received January 17, 2017 and orders the Clerk to reject the Summons and Complaint, Affirmations and Defense, with Exhibits (re-addressed, revised) and return the document(s) to Stacey R. Smith for the reason(s) noted below:

Stacey R. Smith has submitted documents which are nonsensical in nature. If Stacey R. Smith intends for such documents to be used as exhibits, he must submit the documents attached to a pleading, motion or brief, specifically setting out the purpose and relevance to this case.

If Stacey R. Smith wishes to resubmit a corrected pleading, a copy of this Order should accompany the resubmitted pleading.

IT IS SO ORDERED.

Dated: January 18, 2017

/s/ Ray Kent  
RAY KENT  
U.S. Magistrate Judge

**UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT**

Case Number: 17-1022Case Name: IN RE: Stacey SmithName: Stacey R. SmithAddress: 855 Kalamazoo Ave SECity: Grand Rapids State: Mi Zip Code: 49507

**PRO SE APPELLANT'S BRIEF**

**Directions:** Answer the following questions about the appeal to the best of your ability. Use additional sheets of paper, if necessary, not to exceed 30 pages. Please print or write legibly, or type your answers double-spaced. You need not limit your brief solely to this form, but you should be certain that the document you file contains answers to the questions below. The Court prefers short and direct statements.

Within the date specified in the briefing letter, you should return one signed original brief to:

**United States Court of Appeals For The Sixth Circuit**

540 Potter Stewart U.S. Courthouse

100 East Fifth Street

Cincinnati, Ohio 45202-3988

1. Did the District Court incorrectly decide the facts?

☒ Yes

☐ No

If so, what facts?

A Federal Question under an objection to the Honorable Ray Kent with Writ of Mandamus.

2. Do you think the District Court applied the wrong law?

☒ Yes

☐ No

If so, what law do you want applied?

Pursuant to the duties imposed upon it by virtue of 28 U.S.C. 2403(a), this Court will please certify to the Office of the Attorney General that the constitutionality of an Act of Congress affecting the public interest is herein drawn in question:  
The Federal question being, if a state agency is allowed to accept falsified information or document which causes (self-incrimination) to be used which infringes upon Article 17 of Michigan Constitution and the Fifth Amendment.



Case 1:16-cv-01381-PLM-RSK ECF No. 16 filed 01/10/17 PageID.310 Page 20 of 81(20 of 81)

STATE OF MICHIGAN  
62A DISTRICT COURTAFFIDAVIT OF PROBABLE CAUSE  
FOR FELONY COMPLAINTS

CASE NO.

EXHIBIT (A)

2650 DEHOOP AVE SW WYOMING MI 49509

Court Address

(616) 257-9814

Court Telephone

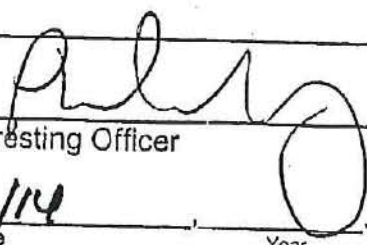
Police Agency: WyomingComplaint Number: 14-29462 Date: 10/30/14Charge: CSC 2NDDefendant: Stacey Rend. / Smith 3/12/69

Describe the events proving the elements of crime charged:

Δ did engage in sexual contact w/ another person  
who is mentally disabled + Δ being in a  
position of authority over the victim

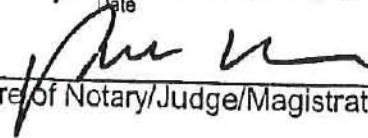
Probable cause to arrest defendant:

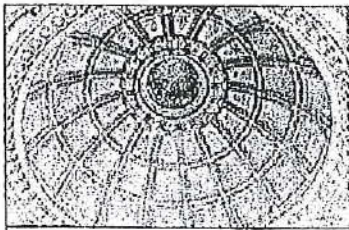
Δ being a therapist to victim, helping to work  
range of motion of muscles victim is mentally  
disabled and confined to a wheel chair Δ  
did admit to kissing the victim and also placing  
his hand down the victim's pants to adjust  
catheter. Δ admit touching catheter was not his  
job. Victim reported that touching of her penis  
& kissing was not consensual

  
Arresting OfficerSubscribed and sworn to before me on 10/30/14

Date

Year

Probable Cause Found: ☒ N  
Signature of Notary/Judge/Magistrate



# MICHIGAN LEGISLATURE

Michigan Compiled Laws Complete Through PA 327 of 2016  
House: Adjourned until Wednesday, January 11, 2017 12:00:00 PM  
Senate: Adjourned until Wednesday, January 11, 2017 12:00:00 PM

[Home](#) [Register](#) [Why Register?](#) [Login](#) [New!](#) [Help](#)

## NAVIGATE SECTIONS

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## Article I § 17

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**EXhibit (B)**

### STATE CONSTITUTION (EXCERPT) CONSTITUTION OF MICHIGAN OF 1963

#### § 17 Self-incrimination; due process of law; fair treatment at investigations.

##### Sec. 17.

No person shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property, without due process of law. The right of all individuals, firms, corporations and voluntary associations to fair and just treatment in the course of legislative and executive investigations and hearings shall not be infringed.

**History:** Const. 1963, Art. I, § 17, Eff. Jan. 1, 1964  
**Former Constitution:** See Const. 1908, Art. II, § 16.

© 2015 Legislative Council, State of Michigan



STATE OF MICHIGAN 32A DISTRICT COURT		COMPLAINT FELONY		CASE NO.: DISTRICT: CIRCUIT:	
Circuit Court ORI: MI-410026J					
THE PEOPLE OF THE STATE OF MICHIGAN		Defendant's name and address SMITH, STACEY RENDIL 1632 HAVANA AVENUE SW WYOMING, MI 49509		Victim or complainant KEVIN HENRY HEYS	
				Complaining Witness OFFICER PHILIP SWIERCZ	
Co-defendant(s)				Date: ON OR ABOUT 08/01/2014	
City/Twp./Village WYOMING	County In Michigan KENT	Defendant TCN	Defendant CTN 41 14 012630 99	Defendant SID	Defendant DOB 03/12/1969
Police agency report no. WY1429462	Charge See below	Defendant DLN S530777734189	Location 2387 BANNER DR SW	Maximum Penalty See below	
Witnesses OFFICER PHILIP SWIERCZ KEVIN HENRY HEYS ANN MARIE BRAFORD DR GIBIBALDI		OFFICER ANTHONY JACOBS KYLE HENRY HEYS RUTH ANNE BONFIGLIO DR STEVEN PASTYRNUK		OFFICER MITCHELL VELDMAN GWENDOLYN HEYS LENNY TREECE DR TIMOTHY ROYER	

STATE OF MICHIGAN, COUNTY OF KENT

The complaining witness says that on the date and at the location described above, the defendant, contrary to law,

COUNT 1

CRIMINAL SEXUAL CONDUCT SECOND DEGREE (MENTALLY DISABLED-RELATIONSHIP)

did engage in sexual contact with another person, to-wit: KEVIN HEYS, said victim being mentally disabled, and said defendant being in a position of authority over the victim and used this authority to coerce the victim to submit; contrary to MCL 750.520c(1)(h). [750.520C1H]

SORA NOTICE

This is a Tier II offense under the Sex Offender Registration Act (SORA) if the victim is 13 or older. MCL 28.722(u)(ix) & (x). It is a Tier III offense if victim is under 13. MCL 28.722(w)(v). It is a Tier III offense if the defendant has a prior conviction for a Tier II offense. MCL 28.722(u)+(v).

HIV/STD TESTING NOTICE

Take notice that pursuant to MCL 333.5129, upon bindover to circuit court or recorder's court, the district court judge shall order the defendant to be tested for venereal disease, hepatitis B infection, and for the presence of HIV or an antibody to HIV if the judge determines there is reason to believe the violation involved sexual penetration or exposure to a body fluid of the defendant. If the district judge determines that testing is not required, upon conviction, the court must order the defendant to be tested.

FELONY: 15 Years; mandatory AIDS/STD testing; DNA to be taken upon arrest.

COUNT 2

CRIMINAL SEXUAL CONDUCT SECOND DEGREE (MENTALLY DISABLED-RELATIONSHIP)

did engage in sexual contact with another person, to-wit: KEVIN HEYS, said victim being mentally disabled, and said defendant being in a position of authority over the victim and used this authority to coerce the victim to submit; contrary to MCL 750.520c(1)(h). [750.520C1H]

SORA NOTICE

This is a Tier II offense under the Sex Offender Registration Act (SORA) if the victim is 13 or older. MCL 28.722(u)(ix) & (x). It is a Tier III offense if victim is under 13. MCL 28.722(w)(v). It is a Tier III offense if the defendant has a prior conviction for a Tier II offense. MCL 28.722(u)+(v).

HIV/STD TESTING NOTICE

Take notice that pursuant to MCL 333.5129, upon bindover to circuit court or recorder's court, the district court judge shall order the defendant to be tested for venereal disease, hepatitis B infection, and for the presence of HIV or an antibody to HIV if the judge determines there is reason to believe the violation involved sexual penetration or exposure to a body fluid of the defendant. If the district judge determines that testing is not required, upon conviction, the court must order the defendant to be tested.

FELONY: 15 Years; mandatory AIDS/STD testing; DNA to be taken upon arrest.

## COUNT 3

## CRIMINAL SEXUAL CONDUCT SECOND DEGREE (MENTALLY DISABLED-RELATIONSHIP)

did engage in sexual contact with another person, to-wit: KEVIN HEYS, said victim being mentally disabled, and said defendant being in a position of authority over the victim and used this authority to coerce the victim to submit; contrary to MCL 750.520c(1)(h). [750.520C1H]

## SORA NOTICE

This is a Tier II offense under the Sex Offender Registration Act (SORA) if the victim is 13 or older. MCL 28.722(u)(ix) & (x). It is a Tier III offense if victim is under 13. MCL 28.722(w)(v). It is a Tier III offense if the defendant has a prior conviction for a Tier II offense. MCL 28.722(u)+(v).

## HIV/STD TESTING NOTICE

Take notice that pursuant to MCL 333.5129, upon bindover to circuit court or recorder's court, the district court judge shall order the defendant to be tested for venereal disease, hepatitis B infection, and for the presence of HIV or an antibody to HIV if the judge determines there is reason to believe the violation involved sexual penetration or exposure to a body fluid of the defendant. If the district judge determines that testing is not required, upon conviction, the court must order the defendant to be tested.

FELONY: 15 Years; mandatory AIDS/STD testing; DNA to be taken upon arrest.

The complaining witness asks that defendant be apprehended and dealt with according to law.

Warrant authorized on:

10/30/2014

Date

By:



Complaining witness signature

Subscribed and sworn to before me on

Date

Judge/Magistrate/Clerk

Bar no.





CASE REPORT  
2300 DeHoop, S.W.  
Wyoming, MI 49509

ASSOCIATED CASE #

5100002

EVENT	REPORTED DATE/TIME	10/07/2014 16:05	Offense Type	CSC	CASE STATUS AT TIME OF REPORT	Open
	OCCURRED DATE/TIME	04/01/2014 18:01	OCCURRED TO DATE/TIME	10/07/2014 16:05	LOCATION OF OCCURRENCE/HOUSE TYPE	2387 BANNER DR SW, # WYOMING 49509

OFFENSES	DESCRIPTION	ATTEMPT/COMMIT
	1177 CSC 2ND DEGREE -FORCIBLE CONTACT	Completed

SUBJECT	SUBJECT TYPE	Suspect				NAME (LAST, FIRST, MIDDLE)	SMITH, STACEY Rendil			PRIMARY PHONE	138-6432	
	ADDRESS	6'5" 240lbs									PHONE #2	
	DOB	AGE or AGE RANGE	SEX	RACE	HEIGHT or RANGE	WEIGHT or RANGE	EYES	HAIR	PHONE #3			
	3/12/69	30	M	B	6'0"	200	Brown	Black				
	DL NUMBER/STATE	SSN				Other Contact Info						
	FBI NUMBER	BID NUMBER		CITATION NUMBER		ALIAS (LAST, FIRST, MIDDLE)/AKA						
	SCHOOL/EMPLOYER, ADDRESS AND PHONE #											
	HEALTH CARE ASSOCIATES, (616)531-9973											

SUBJECT	SUBJECT TYPE	Victim				NAME (LAST, FIRST, MIDDLE)	HEYS, KEVIN HENRY			PRIMARY PHONE		
	ADDRESS	[REDACTED]									PHONE #2	
	DOB	AGE or AGE RANGE	SEX	RACE	HEIGHT or RANGE	WEIGHT or RANGE	EYES	HAIR	PHONE #3			
	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]				
	DL NUMBER/STATE	SSN				Other Contact Info						
	FBI NUMBER	BID NUMBER		CITATION NUMBER		ALIAS (LAST, FIRST, MIDDLE)/AKA						
	SCHOOL/EMPLOYER, ADDRESS AND PHONE #											

SUBJECT	SUBJECT TYPE	Witness				NAME (LAST, FIRST, MIDDLE)	HEYS, KYLE HENRY			PRIMARY PHONE	[REDACTED]	
	ADDRESS	[REDACTED]									PHONE #2	
	DOB	AGE or AGE RANGE	SEX	RACE	HEIGHT or RANGE	WEIGHT or RANGE	EYES	HAIR	PHONE #3			
	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]				
	DL NUMBER/STATE	SSN				Other Contact Info						
	FBI NUMBER	BID NUMBER		CITATION NUMBER		ALIAS (LAST, FIRST, MIDDLE)/AKA						
	SCHOOL/EMPLOYER, ADDRESS AND PHONE #											

REPORTING OFFICER	DATE	REVIEWED BY
Jacob, Anthony 4868	10/07/2014	Hunt, David



6 PM Shift  
3 PM - 5 PM

CASE REPORT  
2300 DeHoop, S.W.  
Wyoming, MI 49509

ASSOCIATED CASE #

Exhibit (E)

EVENT	REPORTED DATE/TIME	10/07/2014 16:05	Offense Type	CSC	CASE STATUS AT TIME OF REPORT	Open
	OCCURRED FROM DATE/TIME	04/01/2014 18:01	OCCURRED TO DATE/TIME	10/07/2014 16:05	LOCATION OF OCCURRENCE/REVIEW TYPE	2387 BANNER DR SW, # WYOMING 49509

OFFENSES	DESCRIPTION	ATTEMPT/COMMIT

SUBJECT	SUBJECT TYPE	Parent	NAME (LAST, FIRST, MIDDLE)	HEYS, GWENDOLYN	PRIMARY PHONE				
	ADDRESS				PHONE #2				
	DOB	AGE or AGE RANGE	SEX	RACE	HEIGHT or RANGE	WEIGHT or RANGE	EYES	HAIR	PHONE #3
	DL NUMBER/STATE				SSN	Other Contact Info			
	FBI NUMBER	BID NUMBER	CITATION NUMBER	ALIAS (LAST, FIRST, MIDDLE)/AKA					
	SCHOOL/EMPLOYER, ADDRESS AND PHONE #								

SUBJECT	SUBJECT TYPE	Other	NAME (LAST, FIRST, MIDDLE)	BRAFORD, ANN MARIE	PRIMARY PHONE				
	ADDRESS				PHONE #2				
	DOB	AGE or AGE RANGE	SEX	RACE	HEIGHT or RANGE	WEIGHT or RANGE	EYES	HAIR	PHONE #3
	DL NUMBER/STATE				SSN	Other Contact Info			
	FBI NUMBER	BID NUMBER	CITATION NUMBER	ALIAS (LAST, FIRST, MIDDLE)/AKA					
	SCHOOL/EMPLOYER, ADDRESS AND PHONE #								

SUBJECT	SUBJECT TYPE	Other	NAME (LAST, FIRST, MIDDLE)	BONFIGLIO, RUTH ANNE	PRIMARY PHONE				
	ADDRESS				PHONE #2				
	DOB	AGE or AGE RANGE	SEX	RACE	HEIGHT or RANGE	WEIGHT or RANGE	EYES	HAIR	PHONE #3
	DL NUMBER/STATE				SSN	Other Contact Info			
	FBI NUMBER	BID NUMBER	CITATION NUMBER	ALIAS (LAST, FIRST, MIDDLE)/AKA					
	SCHOOL/EMPLOYER, ADDRESS AND PHONE #								

REPORTING OFFICER	DATE	REVIEWED BY
Jacob, Anthony 4868	10/07/2014	Hunt, David





CASE REPORT  
2300 DeHoop, S.W.  
Wyoming, MI 49509

ASSOCIATED CASE #

**Exhibit (E)**

EVENT	REPORTED DATE/TIME 10/07/2014 16:05	Offense Type CSC	CASE STATUS AT TIME OF REPORT Open
	OCCURRED FROM DATE/TIME 04/01/2014 18:01	OCCURRED TO DATE/TIME 10/07/2014 16:05	LOCATION OF OCCURRENCE/ADDRESS TYPE 2387 BANNER DR SW, # WYOMING 49509

OFFENSES	DESCRIPTION	ATTEMPT/COMMIT

SUBJECT	SUBJECT TYPE Other	NAME (LAST, FIRST, MIDDLE) TREECE, LENNY		PRIMARY PHONE [REDACTED]					
	ADDRESS [REDACTED]				PHONE #2 [REDACTED]				
	DOB	AGE or AGE RANGE	SEX M	RACE U	HEIGHT or RANGE	WEIGHT or RANGE	EYES	HAIR	PHONE #3 [REDACTED]
	DL NUMBER/STATE		SSN		Other Contact Info				
	FBI NUMBER		BD NUMBER		CITATION NUMBER		ALIAS (LAST, FIRST, MIDDLE)/AKA		
	SCHOOL/EMPLOYER, ADDRESS AND PHONE #								

SUBJECT	SUBJECT TYPE	NAME (LAST, FIRST, MIDDLE)		PRIMARY PHONE					
	ADDRESS				PHONE #2				
	DOB	AGE or AGE RANGE	SEX	RACE	HEIGHT or RANGE	WEIGHT or RANGE	EYES	HAIR	PHONE #3
	DL NUMBER/STATE		SSN		Other Contact Info				
	FBI NUMBER		BD NUMBER		CITATION NUMBER		ALIAS (LAST, FIRST, MIDDLE)/AKA		
	SCHOOL/EMPLOYER, ADDRESS AND PHONE #								

SUBJECT	SUBJECT TYPE	NAME (LAST, FIRST, MIDDLE)		PRIMARY PHONE					
	ADDRESS				PHONE #2				
	DOB	AGE or AGE RANGE	SEX	RACE	HEIGHT or RANGE	WEIGHT or RANGE	EYES	HAIR	PHONE #3
	DL NUMBER/STATE		SSN		Other Contact Info				
	FBI NUMBER		BD NUMBER		CITATION NUMBER		ALIAS (LAST, FIRST, MIDDLE)/AKA		
	SCHOOL/EMPLOYER, ADDRESS AND PHONE #								

REPORTING OFFICER Jacob, Anthony 4868	DATE 10/07/2014	REVIEWED BY Hunt, David
--	--------------------	----------------------------



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Smith, Stacey  
2632 Havana Ave SW  
Wyoming, MI 49509

OK-01-14

The Cassi Street

## Caregiver Monthly Schedule

4/28/2014 - 11/9/2014

1049 The Date Exhibit

(F)

**Sunday**

Monday

Tuesday

Wednesday

1 nurse/day

Friday

Saturday

June 2014

06-12-14

6-2-99

[illegible]

Case 1:16-cv-01381-PLM-RSK-ECF No.

filed 017

Page 17

Page 2

of 81(27

of 81)

Confidential

Printed on 10/15/2014 4:22 PM  
 Scheduled for individual requested by 100671enny on 10/15/2014 4:22 PM

Confidential Data - Do Not Duplicate - Do Not Leave Unattended - Return to Corporate Office

Page 3 of 8

10-15-14:04:27PM;

5852 531 616:

# 17 3

# Caregiver Monthly Schedule

4/28/2014 - 11/9/2014

Smith, Stacey  
1632 Havana Ave SW  
Wyoming, MI 49509

July 2014

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
		1 C 3:00PM-5:00PM (2.00) David's House, -HHA	2	3 C 3:00PM-5:00PM (2.00) David's House, -HHA	4 C 7:00PM-11:00PM (4.00)	5 C 12:00AM-7:00AM (7.00) E
		6 C 3:00PM-5:00PM (2.00) David's House, -HHA	7	8 C 3:00PM-5:00PM (2.00) David's House, -HHA	9 C 7:00PM-11:00PM (4.00)	10 C 12:00AM-7:00AM (7.00) E
		11 C 3:00PM-5:00PM (2.00) David's House, -HHA	12	13 C 3:00PM-5:00PM (2.00) David's House, -HHA	14 C 7:00PM-11:00PM (4.00)	15 C 12:00AM-7:00AM (7.00) E
		16 C 3:00PM-5:00PM (2.00) David's House, -HHA	17 C 3:00PM-5:00PM (2.00) David's House, -HHA	18 C 3:00PM-5:00PM (2.00) David's House, -HHA	19 C 7:00PM-11:00PM (4.00)	20 C 12:00AM-7:00AM (7.00) E
		21 C 3:00PM-5:00PM (2.00) David's House, -HHA	22 C 3:00PM-5:00PM (2.00) David's House, -HHA	23 C 3:00PM-5:00PM (2.00) David's House, -HHA	24 C 7:00PM-11:00PM (4.00)	25 C 12:00AM-7:00AM (7.00) E
		26 C 3:00PM-5:00PM (2.00) David's House, -HHA	27 C 3:00PM-5:00PM (2.00) David's House, -HHA	28 C 3:00PM-5:00PM (2.00) David's House, -HHA	29 C 7:00PM-11:00PM (4.00)	30 C 12:00AM-7:00AM (7.00) E
		31 C 3:00PM-5:00PM (2.00) David's House, -HHA				

EXHIBIT (F)

10-13-14:04:27PM

1616 531 5852

# 3/ 6





Smith, Stacey  
1632 Havana Ave SW  
Wyoming, MI 49509

Caregiver Monthly Schedule

4/28/2014 - 11/9/2014

September 2014

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
		2 C 3:00PM-5:00PM (2.00) David's House, -HHA	3 C 3:00PM-5:00PM (2.00) David's House, -HHA	4 C 3:00PM-5:00PM (2.00) David's House, -HHA	5 C 3:00PM-5:00PM (2.00) David's House, -HHA	6 C 3:00PM-5:00PM (2.00) David's House, -HHA
		9 C 3:00PM-5:00PM (2.00) David's House, -HHA	10 C 3:00PM-5:00PM (2.00) David's House, -HHA	11 C 3:00PM-5:00PM (2.00) David's House, -HHA	12 C 3:00PM-5:00PM (2.00) David's House, -HHA	13 C 3:00PM-5:00PM (2.00) David's House, -HHA
		16 C 3:00PM-5:00PM (2.00) David's House, -HHA	17 C 3:00PM-5:00PM (2.00) David's House, -HHA	18 C 3:00PM-5:00PM (2.00) David's House, -HHA	19 C 3:00PM-5:00PM (2.00) David's House, -HHA	20 C 3:00PM-5:00PM (2.00) David's House, -HHA
		23 C 3:00PM-5:00PM (2.00) David's House, -HHA	24 C 3:00PM-5:00PM (2.00) David's House, -HHA	25 C 3:00PM-5:00PM (2.00) David's House, -HHA	26 C 3:00PM-5:00PM (2.00) David's House, -HHA	27 C 3:00PM-5:00PM (2.00) David's House, -HHA
		30 C 3:00PM-5:00PM (2.00) David's House, -HHA	31 C 3:00PM-5:00PM (2.00) David's House, -HHA	2 C 3:00PM-5:00PM (2.00) David's House, -HHA	3 C 3:00PM-5:00PM (2.00) David's House, -HHA	4 C 3:00PM-5:00PM (2.00) David's House, -HHA

Exhibit (F)

0-10 14:04:27PM

1616 531 5852

# 5/ 6

Confidential

rsScheduleMonthIndividual requested by (10067)Jenny on 10/15/2014 4:24 PM

Confidential Date - Do Not Duplicate - Do Not Leave Unattended - Return to Corporate Office



Caregiver Monthly Schedule

4/28/2014 - 11/9/2014

Smith, Stacey  
1632 Havana Ave SW  
Wyoming, MI 48509

October 2014

Exhibit (F)

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
		20 C 3:00PM-5:00PM (2.00) David's House, -HEA	1 C 3:00PM-5:00PM (2.00) David's House, -HEA	2 C 3:00PM-5:00PM (2.00) David's House, -HEA	3 C 3:00PM-5:00PM (2.00) David's House, -HEA	4 C 3:00PM-5:00PM (2.00) David's House, -HEA
		21	2	3	4	5
		22	3	4	5	6
		23	4	5	6	7
		24	5	6	7	8
		25	6	7	8	9
		26	7	8	9	10
		27	8	9	10	11
		28	9	10	11	12
		29	10	11	12	13
		30	11	12	13	14
		31	12	13	14	15

Confidential

Individual requested by (10067) on 10/15/2014 4:24 PM

Confidential Data - Do Not Duplicate - Do Not Leave Unattended - Return to Corporate Office



Incident Report

EXhibit (G)

On October 5, 2014, while returning from a Tigers Baseball Game with his brother Kyle Heys, Kevin reported to his brother that his penis was "touched and caressed" by Stacey Smith, PT provider, employed by Health Care Associates, while at David's House Ministries, in his room, on his bed. Kevin is unclear about specific dates and stated that this happened at least three different times.

Kyle contacted his mother, Gwen Heys, who then contacted David's House Ministries to set up a meeting on Tuesday, October 7, 2014. Kyle and Gwen met with Ann Braford, Director of David's House Ministries, Shane Metzger, Director of Operations, and Ruth Bonfiglio, House 3 Manager at David's House, where Kevin resides.

Kyle further spoke with Kevin on October 7, 2014. Kevin reported that "the first time Stacey touched his penis, Stacey asked Kevin" Do You Want Me To Put My Hand In Your Pants?" Kevin stated that Stacey put his hand under Kevin's belt inside his pants and "massaged me down there". Kevin shared that "Stacey also asked about taking him to a hotel". Kevin stated that Stacey wanted to meet his mother and brother.

Admission

never said brother

How could I have done this if he had a belt on and fastened Give ie,

IN THE CIRCUIT COURT FOR THE COUNTY OF KENT

\*\*\*\*\*

THE PEOPLE OF THE STATE OF MICHIGAN  
vs

CASE: 62A - WYOMING: 14FY3713

STACEY Rendill SMITH

OFFENSE: CSC 2<sup>ND</sup> - Mentally Disabled Relationship (2CTS)

PRELIMINARY EXAM: 11/12/2014 at 11:00 AM

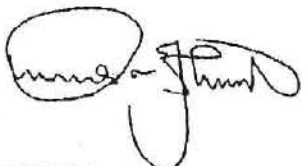
BOND: 10,000 PR - POSTED

ADDRESS: 1632 HAVANA AVE SW, WYOMING MI 49509  
DOB: 3/12/69

**ORDER DENYING REQUEST FOR  
COURT APPOINTED COUNSEL**

In this cause, the defendant has expressed a desire to be represented by counsel and the Court, having reviewed the attached request of the defendant, determines the following:

The said defendant is not indigent and not entitled to a court appointed attorney. The defendant is expected to employ counseling of his choosing or be prepared to represent themselves.

?  
who is this →   
\_\_\_\_\_  
Circuit Judge

Date: November 3, 2014

Attest: A True Copy  


STATE OF MICHIGAN  
IN THE CIRCUIT COURT FOR THE COUNTY OF KENT

Exhibit (o)

THE PEOPLE OF THE STATE OF MICHIGAN

Circuit Court No. ~~14-101-R-117~~

VS  
Stacey R. Smith

**WAIVER OF CIRCUIT COURT ARRAIGNMENT ON INFORMATION**

1. The undersigned defendant and attorney hereby acknowledge that defendant has received a copy of the information, has read or had it read or explained to the defendant, understands the substance of the charge, and waives Circuit Court arraignment in open court.

2. Defendant (check one):

☒ Pleads not guilty  
OR  
☐ Stands mute

3. A preliminary examination transcript is requested (check one):

☐ Yes  
☒ No

DATE: 11/19/14

[Signature]  
Defendant's signature

[Signature]  
Attorney's signature

Residence Address:

1632 Havana Ave SW  
Wyoming, MI 49509

Telephone:

616 238-6432

Office Address:

15 Ionia SW #530  
G.R. Mich 05

Telephone:

616 458 3791

NOTE: Arraignments are conducted before the Circuit Court Presiding Judge at 9:00 A.M. each Friday morning, as noticed, for defendants represented by lawyers who have not executed waivers and for defendants not represented by lawyers. If a guilty plea is to be offered, contact should be made with the Prosecutor's Office.



STATE OF MICHIGAN 62A DISTRICT COURT		BIND OVER/TRANSFER AFTER PRELIMINARY EXAMINATION FELONY Circuit Court ORF MI-410025J		CASE NO.: DISTRICT: CIRCUIT:	
THE PEOPLE OF THE STATE OF MICHIGAN		Defendant's name and address SMITH, STACEY RENDIL 1632 HAVANA AVENUE SW WYOMING, MI 49609		Victim or complainant KEVIN HENRY HEYS	
Co-defendant(s)				Complaining Witness OFFICER PHILIP SWIERCZ	
City/Twp/Village WYOMING		County in Michigan KENT	Defendant TON	Defendant CTN 41 14 012630 99	Defendant SID
Police agency report no. WY1429462		Charge See Complaint	Defendant DLN S530777734189	Location 2387 BANNER DR SW	Defendant DOB 03/12/1969
					Maximum Penalty See Complaint
Reporter/Recorder		Cert. no.		Represented by counsel	
				Bar no.	

EXAMINATION WAIVER

1. I, the defendant, understand:
- a. I have a right to employ an attorney.
  - b. I may request a court appointed attorney if I am financially unable to employ one.
  - c. I have a right to a preliminary examination where it must be shown that a crime was committed and probable cause exists to charge me with the crime.
2. I voluntarily waive my right to a preliminary examination and understand that I will be bound over to circuit court on the charges in the complaint and warrant (or as amended).

Defendant attorney

Bar no.

Defendant

ADULT BIND OVER

- ☒ 3. Examination has been waived.
- ☐ 4. Examination was held and it was found that probable cause exists to believe both that an offense not cognizable by the district court has been committed and that the defendant committed the offense.
- ☒ 5. The defendant is bound over to circuit court to appear on \_\_\_\_\_ at \_\_\_\_\_ m.  
Date Time
- ☒ on the charge(s) in the complaint.  
☐ on the amended charge(s) of \_\_\_\_\_
- MCJP/ACC CODE \_\_\_\_\_
6. Bond is set in the amount of \$ 10.000, Type of bond: PR ☐ Posted

Date

11/19/14

Judge

Bar no.

COPY



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
EXECUTIVE OFFICE  
LANSING

BRIAN CALLEY  
LT. GOVERNOR

December 22, 2016

Ms. Stacey R. Smith  
855 Kalamazoo Ave SE  
Grand Rapids MI 49507

Dear Ms. Smith:

On behalf of Governor Rick Snyder I am responding to your recent letters. While we acknowledge the issues you are experiencing, they do not fall under the jurisdiction of this office as this appears to be a court/probation matter.

Your correspondence received most recently mentions a request for a pardon, please know that under Michigan law the commutation of sentence and pardon process originates within the Michigan Parole Board, Department of Corrections. I suggest that you contact the Board directly at (517) 373-0270 or P.O. Box 30003, Lansing, MI 48909, to express your desire to be considered for a pardon. You may also find the application on-line within the Michigan Department of Corrections website.

Sincerely,

Cheri Arwood  
Executive Administrator  
Legal Division



MR. STACEY R. SMITH  
855 KALAMAZOO AVE SE  
GRAND RAPIDS, MICHIGAN 49507.  
616-350-5709.

MICHIGAN DEPARTMENT OF CORRECTIONS.  
ATTENTION: TO THE MICHIGAN PAROLE BOARD.  
P.O. BOX 30003.  
LANSING, MICHIGAN 48909  
517-373-0270.

REFERENCE: M.D.O.C.: 961806.

Dear M.D.O.C.:

I am requesting that my request for a pardon by the Governor of the State of Michigan be considered and granted. Per the instruction/suggestion of the Governor's office directly, as I have a letter enclosed from his office from Executive Administrator Cheri Arwood. Further enclosures are provided which should show the underlying basis for this request. Please take them into dire consideration as I humbly anticipate the expected reply.

Best regards:

/s/ Mr. Stacey R. Smith  
ENCLOSURES.

THE STATE OF MICHIGAN.  
62A JUDICIAL COURT.

2650 De Hoop Ave SW.  
Wyoming, Michigan 49509.  
616-257-9814.

EXhibit  
(Q)

THE PEOPLE OF THE STATE OF MICHIGAN.

THE HON.: Pablo Cortes.  
CASE NO.: 14FY3713.

V.

} Motion to Stay Proceedings.

Mr. Stacey R. Smith  
1632 Havana Ave SW  
Wyoming, Michigan 49509.  
616-238-6432.

Let it be known that the defendant is respectfully entering a motion to stay proceedings with the knowledge that the defendant has not been able to obtain proper counsel. Also be advises that the defendant is not sure as to the location or time of the Preliminary Examination as to whether it is to take place at 62A at 1PM or the 17<sup>th</sup> Circuit at 11AM. The defendant has a document denying my request for a court appointed attorney and the defendant, as of 11/10/14 submitted proof of defendants indigence and inability to pay for a professional counsel.

The defendant respectfully submits a request to stay this Preliminary Examination until proper counsel has been established.

Thank you and best regards.

NOTARY:

Sworn and subscribed before me in the County of:

\_\_\_\_\_  
County

\_\_\_\_\_  
Date of Notary.

\_\_\_\_\_  
Signature of Notary.

\_\_\_\_\_  
Stamp of Notary.

**EXHIBIT (R)**

Mr. Stacey R. Smith  
1632 Havana Ave SW.  
Wyoming, Michigan 49509.  
616-238-6432.

CASE NO.: 14FY3713.  
HON.: PABLO CORTES.

To 62A District Court.  
2650 De Hoop Ave SW.  
Wyoming, Michigan 49509.  
616-257-9814.

November 10, 2014.

Court Services & the 17<sup>th</sup> Judicial Circuit Court.  
180 Ottawa Ave NW  
Suite No.: 2100.  
Grand Rapids, Michigan 49503.  
616-632-5350.  
616-632-5220.

Reference to: **ORDER DENYING REQUEST FOR A COURT  
APPOINTED ATTORNEY.**

Wednesday November 12, 2014 at 1PM.

This is a letter to contest the order denying a court appointed attorney. I was not allowed time to enter a financial statement to prove my indigence in regards to said case in question. I am currently unemployed as I have been on a medical leave of absence from my primary employer; HOME DEPOT STORE INC. located at 4900 Wilson Ave. Grandville Michigan 49519. 616-257-9559. I am providing the best means of proof of my indigence. 1. a current mortgage statement, a statement of my electric bill, gas bill, water bill, and a current filing for STATE EMERGENCY RELIEF through THE DEPARTMENT OF HUMAN SERVICES. I have not been to work since October 21, 2014 and have been seeking medical attention since that time and have not been cleared to go back to work.

**FINANCIAL STATEMENT:**

**INCOME FOR NOVEMBER 07, 2014: \$388.78 FOR MONTH OF NOVEMBER.**

**EXPENSES:**

**MORTGAGE WELLS FARGO HOME MORTGAGE: \$ 346.00**

**DTE ENERGY (GAS): AS OF NOVEMBER 10, 2014: \$ 455.00**

**CONSUMERS ENERGY (ELEC.) AS OF NOV 10, 2014: \$337.00**

**WATER (CITY OF WYOMING) AS OF NOV 10, 2014: \$258.00**

INTERNET (AT&T) AS OF NOVEMBER 10, 2014: \$79.00

---

TOTAL EXPENSES: \$1475.00

MINUS INCOME FOR NOVEMBER: -(\$388.00)

---

DEFICIT -(\$1087.00).

I provided as many documents as I am able to confirm my indigence in the hopes that this information is respectfully submitted in the hopes for consideration for the approval for a court appointed attorney.

Respectfully submitted:

/s/ Mr. Stacey R. Smith.



Mr. Stacey R. Smith  
855 Kalamazoo Ave SE  
Grand Rapids, Michigan 49507.  
616-350-5709.

**Judicial Tenure Commission**

3034 West Grand Blvd.  
Suite 8-450  
Detroit, MI 48202  
(313) 875-5110.V.  
(313) 875-5154 F.

12/29/2016.

REFERENCE: JTC CASE NO.: 2016-22385.

ATTENTION: Interim Executive Director and General Counsel Glenn Page and Vice Chair  
Pablo Cortes.

Dear Interim Director and Vice Chair:

In response to your results to my request for an investigation in above case number, I would like to inquire on several things. You stated that this commission is limited with the commission's jurisdiction in determining misconduct as defined by law. You also have determined no basis for misconduct with what I have submitted which would bring into question first if you even reviewed the police interview? Have you received and consider the Complaint for Writ of Mandamus? And are you protecting your own member the Vice Chair in this matter. This matter is also cultivating the interest of the news media as I have no interest in exposing myself in this matter though the interest remains by the media for it to go public. From November 29, 2016 to December 16, 2016 allows me to conclude that only 14 days were spent on deciding your jurisdiction on this matter; to where I am sure that it should have taken longer than two weeks to decide on if there were grounds for misconduct. On your site, you indicated That your jurisdiction falls under, "improper communication with only one side of the parties in a case", yet you do not detect that occurrence in what I submitted when I stated that the determination was based on an unreasonable determination of facts that the judge should have detected had he review the police interview and detected me denying the charges three times and detected coercion by Detective Swiercz in comparison to the falsified Affidavit for Probable Cause for Felony Complaint. This commission could not detect the judge's failure to find prosecution in violation of the fabricated charge of MCL 750.520C (1) (H) as I maintained that the victim and I having a friendship and not a relationship and the judge allowing this fabrication to be allowed in court as, your website states as an, "improper off the bench conduct", which I believe the judge showing favor to prosecution.



I ask that the commission re-consider their lack of jurisdiction and ability of intervention and re-examine their jurisdiction. The Prima Facie in this matter is the infringement upon my civil liberty which is protected by the Michigan Constitution were collectively the fact that article 17 was violated and is being overlooked as I mention in the letter I sent stating that this commission along with everyone else would ignore as I predicted:

Jurisdiction is also conferred by MCR 3.305 (A) (1), MCR 3.303 (A), MCR 3.303 (A) (2), and MCR 3.303 (C) 1-7, MCR 3.303 (F) (1) (a), MCR 3.303 (F) (2). Jurisdiction is proper as the protected status of Article § 17 of the Michigan Constitution of 1963: **(PRIMA FACIE)**

FALSIFIED SELF-INCRIMINATION BY DETECTIVE SWIERCSZ WITH THE AFFIDAVIT FOR PROBABLE CAUSE FOR FELONY COMPLAINT 62A Judicial District Court:

§ 17 Self-incrimination; due process of law; fair treatment at investigations. Sec. 17. No person shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property, without due process of law. The right of all individuals, firms, corporations and voluntary associations to fair and just treatment in the course of legislative and executive investigations and hearings shall not be infringed. History: Const. 1963, Art. I, § 17, Eff. Jan. 1, 1964. Former constitution: See Const. 1908, Art. II, § 16.

Respectfully submitted:

/s/ Mr. Stacey R. Smith

Home

Home The Commission The Staff Annual Report Contact Us

Current Commissioners  
(2016)

Commission Meetings

What the Commission CAN  
Do

What the Commission  
CANNOT Do

Succession Chart of  
Commissioners

Home > The Commission > What the Commission CAN Do

## What the Commission CAN Do

[Print This](#) [Email This](#)

### Authority

The Judicial Tenure Commission is the independent state agency responsible for investigating complaints of judicial misconduct and judicial incapacity, and for recommending discipline of judges by the Michigan Supreme Court. Its jurisdiction includes all active judicial officers, as that term is defined in the Michigan Court Rules.

The Commission's authority over judicial officers extends beyond the person's tenure in office if one of two requirements is met. First, if a Request for Investigation is filed while the individual holds the judicial position, the Commission retains jurisdiction even after the person leaves office. Second, if the conduct in question is related to a person's judicial office, the Commission has jurisdiction over the individual regardless of when the Request for Investigation is filed.

### Judicial Misconduct

The Commission's authority is limited to investigating alleged judicial misconduct and, if warranted, recommending the imposition of discipline by the Michigan Supreme Court. Judicial misconduct usually involves conduct in conflict with the standards set forth in the Code of Judicial Conduct. Some examples of judicial misconduct include: intemperate courtroom conduct (such as yelling, rudeness, or profanity); improper communication with only one of the parties in a case; failure to disqualify in cases in which the judge has or appears to have a financial or personal interest in the outcome; delay in performing judicial duties; and public comment about the pending case. Judicial misconduct also may involve improper off-the-bench conduct such as driving under the influence of alcohol or even soliciting money on behalf of charitable organizations. The allegations made in each grievance are considered on a case-by-case basis in accordance with the Code of Judicial Conduct.

### Additional Resources

Please refer to the "Complaint Process," "FAQs," and "Legal Authority" tabs on the Home Page for more detailed information on the Commission's jurisdiction and procedures.

### OUR ADDRESS/PHONE

Judicial Tenure Commission  
3034 West Grand Blvd.  
Suite 8-150  
Detroit, MI 48202  
(313) 875-5110

### FIND US



### LINKS OF INTEREST

- [Attorney Grievances](#)
- [State Bar of Michigan](#)
- [Attorney Discipline](#)
- [U.S. Sixth Circuit](#)
- [Michigan Courts](#)
- [State of Michigan](#)

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MICHIGAN CODE OF JUDICIAL CONDUCT

Canon 1

A Judge Should Uphold the Integrity and Independence of the Judiciary

An independent and honorable judiciary is indispensable to justice in our society. A judge should participate in establishing, maintaining, and enforcing, and should personally observe, high standards of conduct so that the integrity and independence of the judiciary may be preserved. A judge should always be aware that the judicial system is for the benefit of the litigant and the public, not the judiciary. The provisions of this code should be construed and applied to further those objectives.

Canon 2

A Judge Should Avoid Impropriety and the Appearance of Impropriety in All Activities

A. Public confidence in the judiciary is eroded by irresponsible or improper conduct by judges. A judge must avoid all impropriety and appearance of impropriety. A judge must expect to be the subject of constant public scrutiny. A judge must therefore accept restrictions on conduct that might be viewed as burdensome by the ordinary citizen and should do so freely and willingly.

B. A judge should respect and observe the law. At all times, the conduct and manner of a judge should promote public confidence in the integrity and impartiality of the judiciary. Without regard to a person's race, gender, or other protected personal characteristic, a judge should treat every person fairly, with courtesy and respect.

C. A judge should not allow family, social, or other relationships to influence judicial conduct or judgment. A judge should not use the prestige of office to advance personal business interests or those of others, but participation in activities allowed in Canon 4 is not a violation of this principle.

D. A judge should not appear as a witness in a court proceeding unless subpoenaed.

E. A judge may respond to requests for personal references.

F. A judge should not allow activity as a member of an organization to cast doubt on the judge's ability to perform the function of the office in a manner consistent with the Michigan Code of Judicial Conduct, the laws of this state, and the Michigan and United States Constitutions. A judge should be particularly cautious with regard to membership activities that discriminate, or appear to discriminate, on the basis of race, gender, or other protected personal characteristic. Nothing in this paragraph should be interpreted to diminish a judge's right to the free exercise of religion.

- Are you in receipt of the complaint for writ of mandamus

Judge stating "I don't care, Change him with gross indecency!"

Does this sound respectful?

Judge was observed at my job (in the canon complaint) along with the Prosecutor doing facetime, Keith Stambie

Pablo Cortes - Judicial Tenure Commission's Vice Chair?



(d) A judge may, with the consent of the parties, confer separately with the parties and their lawyers in an effort to mediate or settle matters pending before the judge.

(e) A judge may initiate or consider any ex parte communications when expressly authorized by law to do so.

(5) A judge should dispose promptly of the business of the court.

(6) A judge should abstain from public comment about a pending or impending proceeding in any court, and should require a similar abstention on the part of court personnel subject to the judge's direction and control. This subsection does not prohibit a judge from making public statements in the course of official duties or from explaining for public information the procedures of the court or the judge's holdings or actions.

(7) A judge should prohibit broadcasting, televising, recording, or taking of photographs in or out of the courtroom during sessions of court or recesses between sessions except as authorized by the Supreme Court.

(8) A judge may properly intervene in a trial of a case to promote expedition, and prevent unnecessary waste of time, or to clear up some obscurity, but the judge should bear in mind that undue interference, impatience, or participation in the examination of witnesses, or a severe attitude on the judge's part toward witnesses, especially those who are excited or terrified by the unusual circumstances of a trial, may tend to prevent the proper presentation of the cause, or the ascertainment of truth in respect thereto.

Conversation between the judge and counsel in court is often necessary, but the judge should be studious to avoid controversies that are apt to obscure the merits of the dispute between litigants and lead to its unjust disposition. In addressing counsel, litigants, or witnesses, the judge should avoid a controversial manner or tone.

A judge should avoid interruptions of counsel in their arguments except to clarify their positions, and should not be tempted to the unnecessary display of learning or a premature judgment.

(9) A judge should adopt the usual and accepted methods of doing justice; avoid the imposition of humiliating acts or discipline, not authorized by law in sentencing and endeavor to conform to a reasonable standard of punishment and not seek popularity or publicity either by exceptional severity or undue leniency.

(10) Without regard to a person's race, gender, or other protected personal characteristic, a judge should treat every person fairly, with courtesy and respect. To the extent possible, a judge should require staff, court officials, and others who are subject to the judge's direction and control to provide such fair, courteous, and respectful treatment to persons who have contact with the court.

#### B. Administrative Responsibilities:

Judge Both going along  
with prosecution with  
the knowledge of the  
fabricated charge and  
the detective's deceptive  
methodology.

Transmission Report

Date/Time 12-29-2016 15:07:54 Transmit Header Text  
Local ID 1 123 Local Name 1 Fax

This document : Confirmed  
(reduced sample and details below)  
Document size : 8.5"x11"

Mr. Stacey R. Smith  
855 Kalamazoo Ave SE  
Grand Rapids, Michigan 49507.  
616-350-5709.

Judicial Tenure Commission  
3034 West Grand Blvd.  
Suite 8-450  
Detroit, MI 48202  
(313) 875-5110 V.  
(313) 875-5154 F.

12/29/2016.

REFERENCE: JTC CASE NO.: 2016-22385.

ATTENTION: Interim Executive Director and General Counsel Glenn Page and Vice Chair  
Pablo Cortes.

Dear Interim Director and Vice Chair:

In response to your results to my request for an investigation in above case number, I would like to inquire on several things. You stated that this commission is limited with the commission's jurisdiction in determining misconduct as defined by law. You also have determined no basis for misconduct with what I have submitted which would bring into question first if you even reviewed the police interview? Have you received and consider the Complaint for Writ of Mandamus? And are you protecting your own member the Vice Chair in this matter. This matter is also cultivating the interest of the news media as I have no interest in exposing myself in this matter though the interest remains by the media for it to go public. From November 29, 2016 to December 16, 2016 allows me to conclude that only 14 days were spent on deciding your jurisdiction on this matter; to where I am sure that it should have taken longer than two weeks to decide on if there were grounds for misconduct. On your site, you indicated that your jurisdiction falls under, "improper communication with only one side of the parties in a case", yet you do not detect that occurrence in what I submitted when I stated that the determination was based on an unreasonable determination of facts that the judge should have detected had he review the police interview and detected me denying the charges three times and detected coercion by Detective Swiercz in comparison to the falsified Affidavit for Probable Cause for Felony Complaint. This commission could not detect the judge's failure to find prosecution in violation of the fabricated charge of MCL 750.520C(1)(f) as I maintained that the victim and I having a friendship and not a relationship and the judge allowing this fabrication to be allowed in court as, your website states as an, "improper off the bench conduct", which I believe the judge showing favor to prosecution.

Total Pages Scanned : 10

Total Pages Confirmed : 10

No.	Job	Remote Station	Start Time	Duration	Pages	Line	Mode	Job Type	Results
001	326	313 875 5154	15:05:17 12-29-2016	00:01:57	10/10	1	EC	HS	CP24000

Abbreviations:

HS: Host send  
HR: Host receive  
WS: Waiting send

PL: Polled local  
PR: Polled remote  
MS: Mailbox save

MP: Mailbox print  
RP: Report  
FF: Fax Forward

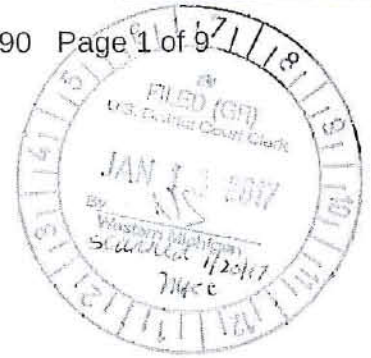
CP: Completed  
FA: Fail  
TU: Terminated by user

TS: Terminated by system  
G3: Group 3  
EC: Error Correct



Case 1:16-cv-01381-PLM-RSK ECF No. 18 filed 01/13/17 PageID.390 Page 1 of 9

IN THE UNITED STATES OF AMERICA.  
U.S. DISTRICT COURT.  
WESTERN DISTRICT OF THE STATE OF MICHIGAN.  
IN THE COUNTY OF KENT.



CASE NO.: 1411012-FH  
BEFORE THE HONORABLE: JUDGE BUTH.  
MCL 750.520E  
AT A SESSION IN THE 17<sup>TH</sup> JUDICIAL CIRCUIT COURT

MICHIGAN COURT OF APPEALS.  
State of Michigan Building  
350 Ottawa, NW  
Grand Rapids, MI 49503-2349  
(616) 456-1167

**1:16-cv-1381**  
Paul L. Maloney - U.S. District Judge  
Ray Kent - U.S. Magistrate Judge

UNITED STATES SIXTH CIRCUIT COURT OF APPEALS.  
Potter Stewart U.S. Courthouse  
100 East Fifth Street  
Cincinnati, Ohio 45202  
Phone: (513) 564-7000

MR. STACEY R. SMITH  
PLAINTIFF (PETITIONER).  
PRO SE INFORMA PAUPERIS.

Rebuttal and request for pardon.  
The Honorable: Governor Rick Snyder.

VS.

**} OBJECTIONS.**

Motion to Intervene in Challenge to Constitutionality of Law.  
FED R. APP P.44  
Detective Swiercz of the Wyoming Police Department.  
28 § U.S.C. 2403.

THE HONORABLE GEORGE S. BUTH P-11479.  
DEFENDANT. (RESPONDENT).

---

Case 1:16-cv-01381-PLM-RSK ECF No. 18 filed 01/13/17 PageID.391 Page 2 of 9

In accordance to the requirement to submit an objection within 14 days of the Report and Recommendation as informed by Magistrate Judge, The Honorable Ray Kent of The United States District Court, I remit said objection with regard to 28§ U.S.C. 2403 (a) : Case 1:16-cv-1381 A Federal question.

*Pursuant to the duties imposed upon it by virtue of 28 U.S.C. 2403(a), this Court will please certify to the Office of the Attorney General that the constitutionality of an Act of Congress affecting the public interest is herein drawn in question.*

The Federal question being, if a state agency is allowed to accept falsified information or document which causes (self-incrimination) to be used which infringes upon Article 17 of the Michigan Constitution in a criminal case as follows:

**(PRIMA FACIE)**

**EXHIBIT (A) -FALSIFIED SELF-INCRIMINATION BY DETECTIVE SWIERCSZ WITH THE AFFIDAVIT FOR PROBABLE CAUSE FOR FELONY COMPLAINT 62A Judicial District Court:**

**EXHIBIT (B) § 17 Self-incrimination; due process of law; fair treatment at investigations. Sec. 17. No person shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property, without due process of law.** The right of all individuals, firms, corporations and voluntary associations to fair and just treatment in the course of legislative and executive investigations and hearings shall not be infringed. History: Const. 1963, Art. I, § 17, Eff. Jan. 1, 1964. Former constitution: See Const. 1908, Art. II, § 16.

Whereas, Magistrate Judge Ray Kent indicates that judges are immune from discipline even if process is in grave error, that it is acceptable in a court of law while the judge is aware or has knowledge of the error?

Also, your Honor, self-incrimination is protected under the fifth amendment of the U.S. Constitution as follows:

**Self-Incrimination**

The Fifth Amendment protects criminal defendants from having to testify if they may incriminate themselves through the testimony. A witness may "plead the Fifth" and not answer if the witness believes answering the question may be self-incriminatory.

In the landmark *Miranda v. Arizona* ruling, the United States Supreme Court extended the Fifth Amendment protections to encompass any situation outside of the courtroom that involves the curtailment of personal freedom. 384 U.S. 436 (1966). Therefore, any time that law enforcement takes a suspect into custody, law enforcement must make the suspect aware of all rights. Known as *Miranda* rights, these rights include the right to remain silent, the right to have an attorney present during questioning, and the right to have a government-appointed attorney if the suspect cannot afford one.



If law enforcement fails to honor these safeguards, courts will often suppress any statements by the suspect as violative of the Fifth Amendment's protection against self-incrimination, provided that the suspect has not actually waived the rights. An actual waiver occurs when a suspect has made the waiver knowingly, intelligently, and voluntarily. To determine if a knowing, intelligent and voluntary waiver has occurred, a court will examine the totality of the circumstances, which considers all pertinent circumstances and events. If a suspect makes a spontaneous statement while in custody prior to being made aware of the *Miranda* rights, law enforcement can use the statement against the suspect, provided that police interrogation did not prompt the statement. MY MIRANDA RIGHTS WERE NEVER GIVEN TO ME.

After Congress passed the Crime Control and Safe Streets Act, some felt that the statute by implication overruled the requirements of *Miranda*. Some scholars also felt that Congress constitutionally exercised its power in passing this law because they felt that *Miranda* represented a matter of judicial policy rather than an actual manifestation of Fifth Amendment protections. In *Dickerson v. United States* the U.S. Supreme Court rejected this arguments and held that the Warren Court had directly derived *Miranda* from the Fifth Amendment.

#### Due Process Clause

The guarantee of due process for all citizens requires the government to respect all rights, guarantees, and protections afforded by the U.S. Constitution and all applicable statutes before the government can deprive a person of life, liberty, or property. Due process essentially guarantees that a party will receive a fundamentally fair, orderly, and just judicial proceeding. While the Fifth Amendment only applies to the federal government, the identical text in the Fourteenth Amendment explicitly applies this due process requirement to the states as well.

Courts have come to recognize that two aspects of due process exist: procedural due process and substantive due process. Procedural due process aims to ensure fundamental fairness by guaranteeing a party the right to be heard, ensuring that the parties receive proper notification throughout the litigation, and ensures that the adjudicating court has the appropriate jurisdiction to render a judgment. Meanwhile, substantive due process has developed during the 20th century as protecting those right so fundamental as to be "implicit in the concept of ordered liberty."

#### COUNT 1 OF MANDAMUS. EXHIBIT (K)

ACG: 16-1551. ITEMIZATION: THE HONORABLE GEORGE S. BUTH P-11479.

1. Line 4 of the Motion for Clarity, the judge did not take the inconsistencies into consideration when I stated, "after reviewing the case on 11/14/2016, that there was information in the file that I discovered was false and not accurate when I read the Affidavit

Case 1:16-cv-01381-PLM-RSK ECF No. 18 filed 01/13/17 PageID.393 Page 4 of 9

of Probable Cause for Felony Complaint from 62A District Court from a one Detective Phillip Swiercz from the Wyoming Police Department, that I admitted to the elements that he stipulated in the affidavit. THIS IS NOT TRUE AND DETECTIVE SWIERCZ FALSIFIED THIS DOCUMENT TO PROMPT THE ARREST AND COVICTION THAT I AM CURRENTLY UNDER. Judge Buth over looked the details of the inconsistencies on the dates on the 62A complaint and the police report were Detective Swiercz stated that the occurrence happened on 04/01/2014 on the police report, then put the occurrence date of 06/01/2014 on the 62A Felony Complaint and also stipulated that on 06/01/2014 that I was there at 6pm when I never worked a shift past 5pm. Please refer to enclosed work schedule. EXHIBIT (F)

2. The judge never acknowledged or questioned that the Discover Motion by Defense Counsel had been completely ignored while Defense Counsel failed to subpoena said DVD in question.
3. Page 2 2<sup>nd</sup> paragraph of the Motion for Clarity, I stated how the judge re-stated about the charges in a different manner that did not directly pertain to the exact charge as I then plead guilty involuntarily because of Defense Counsel of 4<sup>th</sup> degree CSC because I realized that I had no way out while Defense Counsel went along with Prosecution and not defending me at all, and then the judge just pushed the case through. (NOTE: This occurred off the record as you will see the court reporter entering in a sidebar.) I plead guilty, involuntarily because Defense Counsel lied to me and stated, "pleading guilty to CSC 4 that it would not show up on a background check and would only be available to the police and would allow me to get a job without it showing up which sounded like the only way out of this matter. I lost my existing job at the time with Uhaul in the middle of a promotion to Assistant Manager when the charge surface during their background check which was policy and I don't fault Uhaul for following policy. This is one of the reason I felt an investigation was warranted for prosecutorial and judicial misconduct.
4. Being denied proper counsel and being denied (court appointed counsel when proving my indigence is another reason an investigation is warranted). EXHIBIT (H)
5. Pages 2 & 3 on the Supplemental Brief in Support of Counter-Complaint were Due Process was violated by the judge not reviewing the police interview and overlooking the inconsistencies which would have brought into question why I denied the allegations 3 times in and the judge should have detected coercion from Detective Phillip Swiercz during the police interview. EXHIBIT (D)
6. The judge should have determined that the prosecutor Joshua Kuiper P-66576, purposely mis-identified my statement in minute 49:50 of the police interview as a friendship and



allowed the prosecutor to continue a fabricated charge of MCL 750.520C (1) (H), **EXHIBIT (N)**, to enforce the greatest possible charge against me as I stated in the police interview as the victim and I having a friendship not relationship. This was done with malice. The judge stating, "I DON'T CARE. Charge him with gross indecency", during the deliberations between Prosecution and Defense Counsel before the case began. **CANON 2 (B) of the Michigan Judicial Code of Conduct. Was the judge being respectful?**

7. MCR 6.201 (J) VIOLATION: Parties are encouraged to bring into question of noncompliance before the court at the earliest opportunity. (THIS IS MY EARLIEST OPORTUNITY SINCE DEFENSE COUNSEL FAIL TO DO SO). Willful violation by counsel of an applicable discovery rule or an order issued pursuant thereto may subject counsel to appropriate sanctions by the court. The judge should have sanctioned the Prosecutor for malicious attempt to misconstrue defendant's statement in minute 49:50 of the police interview. **EXHIBIT (D)**

#### Rule 24. Intervention

(a) Intervention of Right. Upon timely application anyone shall be permitted to intervene in an action: (1) when a statute of the United States confers an unconditional right to intervene; or (2) when the applicant claims an interest relating to the property or transaction which is the subject of the action and the applicant is so situated that the disposition of the action may as a practical matter impair or impede the applicant's ability to protect that interest, unless the applicant's interest is adequately represented by existing parties.

(b) Permissive Intervention. Upon timely application anyone may be permitted to intervene in an action: (1) when a statute of the United States confers a conditional right to intervene; or (2) when an applicant's claim or defense and the main action have a question of law or fact in common. When a party to an action relies for ground of claim or defense upon any statute or executive order administered by a federal or state governmental officer or agency or upon any regulation, order, requirement, or agreement issued or made pursuant to the statute or executive order, the officer or agency upon timely application may be permitted to intervene in the action. In exercising its discretion the court shall consider whether the intervention will unduly delay or prejudice the adjudication of the rights of the original parties.

(c) Procedure. A person desiring to intervene shall serve a motion to intervene upon the parties as provided in Rule 5. The motion shall state the grounds therefor and shall be accompanied by a pleading setting forth the claim or defense for which intervention is sought. The same procedure shall be followed when a statute of the United States gives a right to intervene.

(As amended Dec. 27, 1946, eff. Mar. 19, 1948; Dec. 29, 1948, eff. Oct. 20, 1949; Jan. 21, 1963, eff. July 1, 1963; Feb. 28, 1966, eff. July 1, 1966; Mar. 2, 1987, eff. Aug. 1, 1987; Apr. 30, 1991, eff. Dec. 1, 1991; Apr. 12, 2006, eff. Dec. 1, 2006.)



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Also, your Honor, you stated that the District court does not have the authority to issue Mandamus in a State Court Proceeding while 28 U.S.C. § 1361 stipulates the following:

§1361. Action to compel an officer of the United States to perform his duty

*The district courts shall have original jurisdiction of any action in the nature of mandamus to compel an officer or employee of the United States or any agency thereof to perform a duty owed to the plaintiff.*

*(Added Pub. L. 87-748, §1(a), Oct. 5, 1962, 76 Stat. 744.)*

*Which causes me to question your willingness to be fair and impartial. I respectfully request that you review and re-consider you decision in your recent report and recommendation.*

Respectfully request that you review and reconsider your intervention.

Respectfully submitted:

/s/ Stacey R. Smith.

Case 1:16-cv-01381-PLM-RSK ECF No. 18 filed 01/13/17 PageID.396 Page 7 of 9

Mr. Stacey R. Smith  
855 Kalamazoo Ave SE  
Grand Rapids, Michigan 49507.  
616-350-5709.

01/11/2017.

**PROOF OF SERVICE.**

U.S. District Court for the Western District of Michigan.  
399 Federal Building  
110 Michigan Ave NW  
Grand Rapids, Michigan 49503.

1:16-cv-1381  
HON.: Paul L. Maloney.

The Honorable: George S. Butth P-11479.  
Kent County Courthouse.  
Suite No.: 12200A.  
180 Ottawa Ave NW  
Grand Rapids, Michigan 49503.  
616-632-5020.

Governor Rick Snyder.  
P.O. Box 30013  
Lansing, Michigan 48909.

The United States Department of Justice.  
The United States Attorney General.  
The Honorable: Mrs. Loretta Lynch.  
950 Pennsylvania Ave NW  
Washington D.C. 20530-0001.  
202-514-2000. V.

Michigan State Attorney General's Office.  
Michigan State Attorney General.  
The Honorable: Mr. William Schuette.  
G. Mennen Williams Building, 7<sup>th</sup> Floor.  
525 W Ottawa ST.  
P.O. Box 30212.  
Lansing, Michigan 48909.  
517-373-1110 V.  
517-373-3042 F.

JTC No.: 16-22385.  
AGC No.: 16-1551.

(THE JUDICIAL TENURE COMMISSION) (ATTORNEY GREIVANCE COMMISSION).  
3044 W. Grand Blvd  
Detroit, Michigan 48202.  
313-875-5110. V.  
313-875-5154. F.  
[judicialtenure@courts.mt.gov](mailto:judicialtenure@courts.mt.gov)  
<http://jtc.courts.mt.gov>

Buhl Building LLC.  
535 Griswold St.  
Detroit, Michigan 48226.  
313-961-6585. V.  
<http://www.agcmt.org/>

The White House.  
The President of the United States of America. ATTENTION: Magistrate Judge: Ray Kent.  
1600 Pennsylvania Ave NW  
Washington, DC 20500.  
202-456-1414.

U.S. District Court.  
113 Federal Building.  
315 West Allegan St.  
Lansing, Michigan 48933.

Case 1:16-cv-01381-PLM-RSK ECF No. 18 filed 01/13/17 PageID.397 Page 8 of 9

PROOF OF SERVICE.

To the above mentioned and to the:

Honorable: George S. Buth.

As required and informed by:

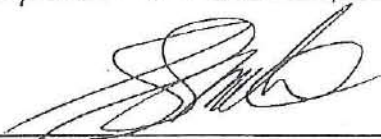
The Court Clerk of the

U.S. District Court.  
113 federal Building  
315 West Allegen Street.

Lansing, Michigan 48933.

PROOF OF SERVICE.

I certify under the penalty of perjury of the United States of America and State of Michigan, that I mailed a true copy of this document to the addresses above on this 11th day of January 2017 A.D. by US first class mail.



SIGNATURE OF MR. STACEY R. SMITH ONLY.

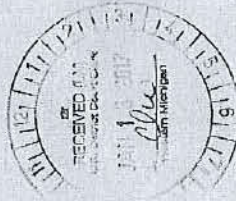


Case 1:16-cv-01381-PLM-RSK ECF No. 18 filed 01/13/17 PageID.398 Page 9 of 9

Stacey R. Smith

855 Kelamizeo Ave SE

Grand Rapids, MI 49507



1:16-cv-FB 81

U.S. District Court

Magistrate Judge: Ray Kent

113 Federal Building

315 West Allegan St

Lansing, MI 48933







Stacey R. Smith

855 Kalamazoo Ave SE

Grand Rapids, MI 49507



U.S. Court of Appeals

For the Sixth Circuit

100 East Fifth Street RM 540

Potter Stewart U.S. Courthouse

Cincinnati, Ohio 45202-3988

**RECEIVED**

MAR - 2 2017

DEBORAH S. HUNT, Clerk

United States of America.  
Sixth Circuit Court of Appeals.  
Potter Stewart U.S. Courthouse.  
100 East Fifth Street.  
Cincinnati, Ohio 45202.  
513-564-7000.

17-1022

IN RE SMITH  
APPELLANT,

COA CASE NO.: 336537  
U.S. DISTRICT: 1:16-cv-1381  
CCA CASE NO.: 17-1022  
DOJ REFERENCE: 3749088  
JTC REFERENCE: 16-22385  
AGC REFERENCE: 16-1551

LOWER COURT: 14-11012-FH

STACEY R. SMITH<sup>33\*</sup>APPELLANT  
PRO SE, IN PRO PER

V.

} SIXTH CIRCUIT APPEAL AND COUNTER-COMPLAINT.

AFFIRMATION FOR SUPERINTENDING  
CONTROL. (WRIT OF MANDAMUS EXTRODINAIRE).  
MCL 600.4401 (1). EXPARTE REQUEST FOR JUDICIAL  
REVIEW. 28 § U.S.C. 1361. AFFIRMED BY:  
U.S. DISTRICT JUDGE PAUL L. MALONEY P-25194.

GEORGE S. BUTH P-11479.

APPELLEE,

APPELLEE'S DEFENSE COUNSEL:  
THOMAS J. DEMPSEY P-48792.  
KENT COUNTY CORPORATE COUNSEL.  
17<sup>TH</sup> CIRCUIT COURT AND THE HON. GEORGE S. BUTH.  
300 MONROE AVE NW  
GRAND RAPIDS, MICHIGAN 49503-2206.

NOW ENTERS THE PLAINTIFF, IN RE, herein forth referred to as, "Appellant", in the above case number and do hereby acknowledge the appearance of counsel in regards to Corporate Counsel of the County of Kent; being, a one Mr. Thomas J. Dempsey P-48792, Assistant Corporate Counsel, herein referred to as "Appellee's Defense Counsel". And as a reminder to this Honorable Court, if the court can maintain the reminder that the Appellant remains without Professional Counsel and is attempting this matter in the absence thereof and for the following reasons: Appellant has pursued multiple attempts to re-obtain alternate post-conviction counsel by and through direct inquiry unsuccessfully. ie- Nancy Ballast, Shannon Smith, ACLU's Miriam Auckerman, Brian Pain, (Superior Defense Counsel) – Scott Grabel, Chris Trainor, Vince Farougi, previous deficient Defense Counsel John R. Beason, and five other post-conviction attorneys unsuccessfully. The primary reason for declination for retention of counsel is due to my inability to cover the cost that these Professional Counselors require due to my life being destroyed intentionally and maliciously by Prosecution, Defense Counsel John R. Beason P-34095, Detective Phillip Swiercz of the Wyoming Police Department, and the Honorable George S. Buth P-11479 now retired as of January 01, 2017. All in conjunction with their deviant cooperation and not collaboration of the standard judicial process with the violative act of deprivation of my due process under the protected status of the Fifth Amendment of the U.S. Constitution and of Article 17 of the Michigan Constitution. Also, your Honor, please be advised that at approximately 10:15 A.M. on February 21, 2017, I physically called the 17<sup>TH</sup> Circuit Court to confirm whether or not the court is in receipt of said remedy in question, A "MOTION TO MODIFY SENTENCING", and receipt of said document has been DENIED. This should show the courts that it is **not a confirmed remedy** as Appellee's Defense Counsel is alleging for the following reasons:

1. Appellee's Defense Counsel states or is implying that EXHIBIT 2 in Appellee's Brief is a (REMEDY) when it is not nor has it been confirmed as such by the 17<sup>TH</sup> Circuit Court as of February 21, 2017 10:15 A.M. by a 17<sup>TH</sup> Circuit Court employee that it has not been physically received.
2. The employee of the 17<sup>TH</sup> Circuit Court also has confirmed that EXHIBIT 2 of Appellee's Brief is not even admissible in the 17<sup>TH</sup> Circuit Court because of it being faxed to the court and not official by the initiator or the Appellant himself with his notarized signature.
3. Appellee's EXHIBIT 2 is a Motion IN PART because it is not comprised of the part where the Prosecutor's signature is required, a one Christopher R. Becker P-53752 Lead Prosecuting Attorney for the County of Kent. And the newly assigned judge to Case No.: 14-11012-FH a one The Honorable J. Joseph Rossi P-53941 of the 17<sup>TH</sup> Circuit Court and Appellant's notarized signature.
4. Appellee's Defense Counsel has not affirmed to the Appellant nor this Honorable Court as to whether or not the 17<sup>TH</sup> Circuit Court will even accept the motion after being affirmed and signed by both the Honorable J. Joseph Rossi and Lead Prosecutor Christopher R. Becker which infers Appellee's Defense Counsel to appear to be misleading to the Appellant and to this Honorable Court. This act alone should justify Superintending Control of the **Sixth Circuit Court of Appeals**.
5. Superintending Control would assure the Appellant a (REMEDY) as Appellee's Defense Counsel has also shown the intended behavior of his client, The Honorable George S. Buth, Prosecution, my previous Defense Counsel, Detective Phillip Swiercz, to remain to be intentionally misleading and deceptive in an effort to prevent or block aide any attempt of a remedy which should justify Superintending Control as well.



### COUNTER-ARGUMENT.

Appellee's Defense Counsel argues that the Appellant is not in need of Superintending Control because of the relief being pursued while Appellant has explained in the above 5 for mentioned reasons while justifying Superintending Control. Appellee's Defense Counsel also cites:

Choe v Flint Charter Twp, 240 Mich App 662, 667; 615 NW2d 739 (2000). However, the outcome is not affected by the label attached to the complaint because the legal rules governing superintending control mirror those governing mandamus. See English Gardens Condominium, LLC v Howell Twp, 273 Mich App 69, 73 n 1; 729 NW2d 242 (2006), rev'd in part on other grounds 480 Mich 962 (2007).

Which indicates that the rules governing Superintending Control mirror those rules governing Mandamus and that Superintending Control (should be sought rather than); however, a Writ is is prudent (because of the underlying circumstances), which makes this extraordinary, or (**EXTRODINAIRE**), and proof that I am about to establish that the contents submitted has been overlooked and ignored and are being overlooked and ignored in this proceeding as well.

Appellee's Defense Counsel is electing a decision without an oral argument pursuant to MCR 7.214 (E). The Appellant concurs in conjunction to MCR 7.211 (A) (3) (c) with regards to Appellee's abuse of discretion against Canon (2) (F) (8) of the Michigan Judicial Code of Conduct allowing Assistant Prosecutor Joshua Kuiper P-66576 to knowingly submit a fabricated charge of MCL 750.520C (1) (H) while being aware of my denial to the allegations 3 times in EXHIBIT (D) the police interview with Detective Phillip Swiercz of the Wyoming Police Department. Asserting MCR 7.211 (C) (7) – A confession of error by the Kent County Prosecutor's Office shall be assumed with regards to MCR 7.211 (C) (9) (a) – as Appellant submits and request in this brief, be comprised of a: Motion to Seal said Court Record – MCA: 336537, as well as the lower Court Case No.: 14-11012-FH, IN WHOLE, as a remedy of MANDAMUS or Superintending Control



because the Appellant DOES NOT BELIEVE Appellee's contentions of a remedy being available in the lower court. Also, the Honorable Judge J. Joseph Rossi contends that it is prudent to await for a response from either the President of the United States, or the U.S. Attorney General's or the Michigan Attorney General's office before handing down his opinion in a correspondence remitted to the Appellant on January 27, 2017 in acknowledgement of Appellant's request for remedy which means he WILL NOT hand down a remedy at this time as Appellee's Defense Counsel contends that a remedy in the lower court is available. Pursuant to MCR 7.206 (B) and (D) are proper concerning Superintending Control and Mandamus because of no other remedy being available to the Appellant as well as MCL 600.4401 (1) – Mandamus against a state official. MCR 3.305 (A), MCR 3.305 (C), and MCR 3.305 (E) – Asserts jurisdiction with an Order to Show Cause with Exhibits which are already submitted to the 17<sup>TH</sup> Circuit Court and should be in the custody of the Appellee's Defense Counsel to which Appellee's Defense Counsel has already failed in answering during the filing of his appearance. This has been recognized by the Appellant with clear understanding of the Appellee's intentions not to address "The Ex parte Request for Judicial Review." Appellee's Defense Counsel has no intentions on addressing the Appellant's concern which would also make the Appellant without remedy therefore further justifying Superintending Control through Appellant's Writ of Mandamus.

NOTE: Michigan Court Rules.

Chapter 3. Special Proceedings and Actions

Page 73

Last Updated February 7, 2017

SUBCHAPTER 3.300 EXTRAORDINARY WRITS

RULE

3.301 EXTRAORDINARY WRITS IN GENERAL

(A) Applicability and Scope of Rules.

(1) A civil action or appropriate motion in a pending action may be brought to obtain

(a) **superintending control**,

(b) habeas corpus,

(c) **mandamus**, or

(d) quo warranto.

Unless a particular rule or statute specifically provides otherwise, an original action may not be commenced in the Supreme Court or the Court of Appeals if the circuit court would have jurisdiction of an action seeking that relief.

(2) These special rules govern the procedure for seeking the writs or relief formerly obtained by the writs, whether the right to relief is created by statute or common law. If the right to relief is created by statute, **the limitations on relief in the statute apply**, as well as the limitations on relief in these rules.

(3) The general rules of procedure apply except as otherwise provided in this subchapter.

(B) Joinder of Claims. More than one kind of writ may be sought in an action either as an independent claim or as an **alternative claim**. Subject to MCR 2.203, other claims may be joined in an action for a writ or writs.

(C) Process; Service of Writs.

Process must be issued and served as in other civil actions.

However, if a writ, order, or order to show cause is issued before service of process, then service of the writ, order, or order to show cause in the manner prescribed in MCR 2.105, accompanied by a copy of the complaint, makes service of other process unnecessary.

(D) Assignment for Trial. Actions brought under these special rules may be given precedence under MCR 2.501(B).

(E) Records. The action taken on applications for writs or orders to show cause must be noted in court records in the same manner as actions taken in other civil actions.

(F) No Automatic Stay. The automatic stay provisions of MCR 2.614(A) do not apply to judgments in actions brought under this subchapter.

**(G) Procedure Where Relief Is Sought in Supreme Court or Court of Appeals.**

(1) MCR 7.304 applies to original proceedings brought in the Supreme Court to obtain relief under this subchapter.

Chapter 3. Special Proceedings and Actions Page 74 Last Updated February 7, 2017

(2) MCR 7.206 applies to original proceedings brought in the Court of Appeals to obtain relief under this subchapter.

## RULE

### 3.302 SUPERINTENDING CONTROL

(A) Scope. A superintending control order enforces the superintending control power of a court over lower courts or tribunals.

(B) Policy Concerning Use. If another adequate remedy is available to the party seeking the order, a complaint for superintending control may not be filed. See sub rule (D)(2), and MCR 7.101(A)(2), and 7.304(A).

(C) Writs Superseded. A superintending control order replaces the writs of certiorari and prohibition and the writ of mandamus when directed to a lower court or tribunal.

(D) Jurisdiction.

(1) The Supreme Court, the Court of Appeals, and the circuit court have jurisdiction to issue superintending control orders to lower courts or tribunals.

(2) When an appeal in the Supreme Court, the Court of Appeals, or the circuit court is available, that method of review must be used. If superintending control is sought and an appeal is available, the complaint for superintending control must be dismissed. Appellee's Emphasis.

(E) Procedure for Superintending Control in Circuit Court.

(1) Complaint. A person seeking superintending control in the circuit court must file a complaint with the court. Only the plaintiff's name may appear in the title of the action (for example, ***In re Smith*** (IRONICALLY)). The plaintiff must serve a copy of the complaint on the court or tribunal over which superintending control is sought. If the superintending control action arises out of a particular action, a copy of the complaint must also be served on each other party to the proceeding in that court or tribunal.

Appellee's Defense Counsel, in this section, stipulates in section (2) of MCR 3.302 that a method review is available when it is not. **Please refer to Writ.** Appellee's Defense Counsel also elects that: In a viable complaint for Superintending Control, the plaintiff must establish that the defendant has failed to perform a clear legal duty and the plaintiff is otherwise without adequate

legal remedy. The neglect of adequate legal remedy has been established in the above mentioned. In regards to the defendant's failure to perform a clear legal duty, please refer to AGC 16-1551 counts 1-4 of Mandamus in the "BRIEF FOR WRIT OF MANDAMUS EXTRODINAIRE WITH EXHIBITIONS. EXPARTE REQUEST FOR JUDICIAL REVIEW". Motion to Intervene in Challenge to Constitutionality of Law. 28 § U.S.C. 2403. Superintending Control is NOT REQUIRED to be dismissed as Appellee's Defense Counsel is alleging with the fact being that defendant's failure to perform a clear duty has been established with no other remedy also being established. Further, with regard to the Federal opinion handed down by U.S. District Judge Paul L. Maloney P-25194 through the adoption of the Report and Recommendation, herein forth referred to as R&R, by U.S. Magistrate Judge Ray Kent P-44156, **IN PART, subject-matter jurisdiction has been established with regard to Fifth Amendment infringement** by the Appellee as well as the Kent County Prosecutor's Office, deficient Defense Counsel, and Detective Phillip Swiercz of the Wyoming Police Department. Page 8 of Appellee's Brief, Appellee's Defense sustains that Appellant's Motion to Modify Sentencing remains pending before the 17<sup>TH</sup> Circuit Court while Appellant has established and confirmed by the 17<sup>TH</sup> Circuit Court that they are NOT IN RECEIPT OF SAID MOTION IN QUESTION. Confirmed on February 21, 2017 at 10:15 A.M. Appellee's Defense Counsel indicates that the Appellant continues to avail himself of remedies that are available when Appellee's Defense Counsel WILL NOT indicate what those remedies are with the deliberate intention of eluding the Appellant and this Honorable Court of what those remedies are and the remedies that the 17<sup>TH</sup> Circuit Court will accept as a remedy in consideration of what has been submitted in the Multi-Track Litigation submitted to the Honorable Courts.

**APPELLANT'S STATEMENT OF JURISDICTION.**

Initially, I would like to point out, as I mentioned before everyone's intent to overlook the case in the lower court as well as this appellant proceeding as well. With the affirmed subject-matter jurisdiction being established from U.S. District Judge Paul L. Maloney, this proves and warrants Mandamus to be passed down to the Michigan Court of Appeals or in the form of Superintending Control as affirmed by said U.S. District Judge. With The defendant overlooking the inconsistencies intentionally and with malice, Judge George S. Butz ignored vitally important information and inconsistencies which were not challenged or questioned purposely to Defense Counsel nor Prosecution in an effort to curtail my freedom through the use of deception and entrapment in orchestration with Detective Phillip Swiercz and deficient Defense Counsel. The dates on EXHIBITS (C) and (E) are noticeably inconsistent proving that Detectives Swiercz allegations of the Appellant's commitment to the felony charges falls OUTSIDE the time I started at the David's House. The defendant failed a clear duty in this matter by knowingly allowing this information to be accepted as true when the inconsistency is most obvious. The defendant also allowed Prosecution to fabricate a charge of MCL 750.520C (1) (H) while knowing or having the knowledge that I denied the allegations three times during the police interview EXHIBIT (D). The defendant knowingly allowed Detective Phillip Swiercz to falsify EXHIBIT (A) to entrap me into court by stating on the 62A Felony Probable Cause Complaint stating that I admitted to the charges when I did not. The defendant failed his judicial duty by knowingly allowing this document into court with MALICE. The defendant failed in his duty by not sanctioning Prosecution and Defense Counsel pursuant to MCR 6.201 (J).      FORMULA AS FOLLOWS:



FORMULA:

(Prosecution)                      (Defense Counsel)

MCR 6.110 (D1) + (2a) + (2b) + (2c) (E) = MCR 6.201 (b2) + (b5) = MCR 6.201 (b2) + (b5)

MCR 6.108 (A) + MCR 6.110 (A) + (C) + (D) + (D1) + (D2) = MCR 6.110 (E) + (F) + (H)

Should be equal to: MCR 6.201 (J): (VIOLATION).

*J) Violation. If a party fails to comply with this rule, the court, in its discretion, may order the party to provide the discovery or permit the inspection of materials not previously disclosed, grant a continuance, and prohibit the party from introducing in evidence the material not disclosed, or enter such other order as it deems just under the circumstances. Parties are encouraged to bring questions of noncompliance before the court at the earliest opportunity. Willful violation by counsel of an applicable discovery rule or an order issued pursuant thereto may subject counsel to appropriate sanctions by the court. An order of the court under this section is reviewable only for abuse of discretion.*

Appellee's Defense Counsel is aligned with overlooking pertinent information as well as proving that he failed to review the case because the ACTUAL case number of the lower court is recorded as 14-(0)11012-FH when the actual correct case number is 14-11012-FH.

Has Appellee's Defense Counsel actually reviewed the case with an INACURATE CASE NUMBER? This indicates to the Appellant that the case has not been reviewed by the Appellee's Defense Counsel nor the Michigan Court of Appeals. Appellee's Defense Counsel has also cited MCL 600.440 when the actual citing is MCL 600.4401 (1). These are inconsistencies which are proving everyone's intentions to take this case with NO REGARD AT ALL. MCL 600.4401 (1) being Mandamus against a state official. There continues to be inconsistencies now throughout the appellant procedure with the intent to disregard the Appellant's concern further justifying a Writ of Mandamus less Superintending Control of case number: 14-11012-FH, proving that the Plaintiff, IN RE, that NO one has carefully examined the issues and concerns that the Appellant has been attempting to address and the processes that the Appellant is attempting to pursue are

just being overlooked and either pushed aside or sent through the process without serious, consideration showing no regard for my life or well-being. With this amount of disregard while it has locally and increasingly been publicized that wrongful convictions are most prevalent here in Michigan and across the United States. Serious considerations for the courts, prosecutor's, judges, and Corporate Counsels continue to refuse to take a step back to seriously look and examine the possibility that judicial error may be present. Instead, Judicial Officers in defense of resisting Superintending Control feel it is more convenient to just especially issue a smoke screen citing case law in an effort to confuse a non-Professional Counselor, in Pro Per, in an effort to restore ones life after the wake of the malicious destruction of **intentional judicial error**. I propose its not worth their time to take the time to valiantly look in to a case and face the possibility that a mistake may have been made. Instead, it is more comfortable and convenient to just go through the formalities vicariously and just leave the damage as it may. Meaning, my life, which has been completely destroyed by the neglect and failure of duty, with an abrupt retirement of no recourse, to remain at waste. The Honorable George S. Butth while working in conjunction with Prosecution, deficient Defense Counsel, and Detective Phillip Swiercz violated his CANONS – 2 (F) (8) of the Michigan Judicial Code of Conduct while the 17<sup>TH</sup> Circuit Court also purposely denying me court appointed counsel when I prove my indigence at that time and all working in cooperation and not collaboration in an effort to corroborate FALSE self-incrimination in orchestration by all three parties with MALICE. Now Appellee's Defense Counsel claims that there is a remedy in progress with the Motion to Modify Sentencing after the 17<sup>TH</sup> Circuit Court denies receipt of said motion in question. Why wouldn't Mandamus or Superintending Control not be warranted your Honor? Before all of this, it was my intentions, after acquiring my home, to re-enroll back into college to finish pursuing a J.S.D./M.B.A with a

Ph.D in Economics after a D.O.L. career assessment placing me in the International Division of the Federal Reserve System. Now that this is all gone due to the malicious destruction of Detective Swiercz, Prosecution, the defendant George S. Buth, and deficient Defense Counsel with MALICE. With regards to jurisdiction. Federal Judge Paul L. Maloney P-25194 HAS ADOPTED, IN PART, U.S. Magistrate Judge Ray Kent's R&R P-44156 stating that, "the Plaintiff in the matter of Stacey Smith V. George S. Buth Case No.: 1:16-cv-1381, has stated a CLAIM over which this court has subject-matter jurisdiction." Appellee's Defense Counsel maintains, **with emphasis added**, that pursuant to MCR 3.302 (D) (2), **"If Superintending Control is sought and an appeal is available, (Hence this "Appellant Process" NOW being available with regards to Case No.: 336537) (BEING AVAILABLE AT THIS TIME), that the complaint for Superintending Control should be dismissed."** With proof being established that no remedy has been confirmed to be available with regards to Appellees EXHIBIT 2, and MCA Case No.: 336537 being active, this appellant process being available, FURTHER AFFIRMS CONFIRMATION FOR SUPERINTENDING CONTROL PURSUANT TO MCL 600.4401 (1). In conjunction to Federal Judge Paul L. Maloney's adoption, **IN PART**, of Federal Magistrate Judge Ray Kent's R&R stating that: "the Plaintiff in the matter of Stacey Smith V. George S. Buth Case No.: 1:16-cv-1381, has stated a CLAIM over which this court has subject-matter jurisdiction." Your Honor, with Federal subject-matter jurisdiction, this is also a **FEDERAL ORDER OF MANDAMUS PURSUANT TO 28 § U.S.C. 1361 STIPULATING:**

§1361. Action to compel an officer of the United States to perform his duty.  
 The district courts shall have original jurisdiction of (ANY) action in the nature of mandamus to compel an officer or employee of the United States or (ANY) agency thereof to perform a duty owed to the plaintiff.

(Added Pub. L. 87-748, §1(a), Oct. 5, 1962, 76 Stat. 744.) AN AFFIRMED CLAIM OF MANDAMUS.

Your Honor, this order is to be passed down to the appeals court as it was stated to be my relief. Federal Judge Paul L. Maloney affirmed that since Federal Courts do not supervise state judges, that my relief sought is in the appeals court. And with Federal Judge Paul L. Maloney's affirmation of "Smith having subject-matter jurisdiction" in federal Court, I understand this to pass this subject-matter jurisdiction to where he has directed which would be the Michigan Court of Appeals. (Please refer to Federal Judge Paul L. Maloney's adoption of the Report and Recommendation of Federal Magistrate Judge Ray Kent. -AFFIRMATION OF SUPERINTENDING CONTROL. Appellee's Defense Counsel maintains that a remedy is available to the Appellant when it has not been confirmed that the Kent County Prosecutor will either accept, affirm, or sign said document in question along with the newly assign judge of the 17<sup>TH</sup> Circuit Court which Appellant maintains that this is not an available remedy. Also, after the 17<sup>TH</sup> Circuit Court has also confirmed that the appeal process through the 17<sup>TH</sup> Circuit Court is also NOT AVAILABLE to the Appellant which confirms and PROVES to the Michigan Court of Appeals, in conjunction with the Federal R&R affirming that this is the only avenue for relief. Also, your Honor, a Federal question has been raised and has been requested to be certified. The Federal question being:

In accordance to the requirement to submit an objection within 14 days of the Report and Recommendation as informed by Magistrate Judge, The Honorable Ray Kent of The United States District Court, I remit said objection with regard to 28§ U.S.C. 2403 (a) : Case 1:16-cv-1381 A Federal question.

*Pursuant to the duties imposed upon it by virtue of 28 U.S.C. 2403(a), this Court will please certify to the Office of the Attorney General that the constitutionality of an Act of Congress affecting the public interest is herein drawn in question.*

The Federal question being, if a state agency is allowed to accept falsified information or document which causes (self-incrimination) to be used which infringes upon Article 17 of the Michigan Constitution in a criminal case as follows:

**(PRIMA FACIE)**

**EXHIBIT (A)** -FALSIFIED SELF-INCRIMINATION BY DETECTIVE SWIERCSZ WITH THE AFFIDAVIT FOR PROBABLE CAUSE FOR FELONY COMPLAINT 62A Judicial District Court:

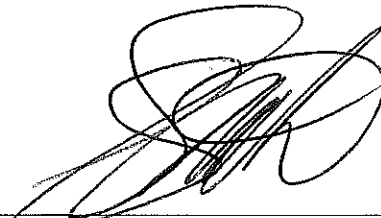
**EXHIBIT (B) § 17 Self-incrimination; due process of law; fair treatment at investigations.** Sec. 17. **No person shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property, without due process of law.** The right of all individuals, firms, corporations and voluntary associations to fair and just treatment in the course of legislative and executive investigations and hearings shall not be infringed. History: Const. 1963, Art. I, § 17, Eff. Jan. 1, 1964. Former constitution: See Const. 1908, Art. II, § 16.

Whereas, Magistrate Judge Ray Kent indicates that judges are immune from discipline even if process is in grave error, **that it is acceptable in a court of law while the judge is aware or has knowledge of the error?**

With regards to the question presented from the Appellee's Defense Counsel, Superintending Control has been hereby AFFIRMED, and Appellant is asking this Honorable Court to confirm said Motion to Modify Sentencing based on the Writ of Mandamus, and the Federal Opinion handed down by Federal Judge Paul L. Maloney to accept and affirm said motion if it so pleases this Honorable Court.

Thank you.

Respectfully submitted.



---

MR. STACEY R. SMITH.  
APPELLANT.  
855 KALAMAZOO AVE SE  
GRAND RAPIDS, MICHIGAN 49507.  
616-350-5709.  
DATE: 02-28-2017



United States of America.  
Sixth Circuit Court of Appeals.  
Potter Stewart U.S. Courthouse.  
100 East Fifth Street.  
Cincinnati, Ohio 45202.  
513-564-7000.

---

CCA CASE NO.: 17-1022.  
CASE NO.: 14-11012-FH.  
HON.: J. JOSEPH ROSSI. P-53941.

PEOPLE OF THE STATE OF MICHIGAN.

(KENT COUNTY PROSECUTOR'S OFFICE).  
CHRISTOPHER R. BECKER P-53752.  
82 IONIA AVE SUITE NO.: 450.  
GRAND RAPIDS, MICHIGAN 49503.  
616-632-6710.

V.

} MOTION TO MODIFY SENTENCING.

STACEY R. SMITH  
855 KALAMAZOO AVE SE  
GRAND RAPIDS, MICHIGAN 49507.  
616-350-5709.

FINAL DRAFT.  
DISREGARD ALL OTHER CORRESPONDENCE  
WITHOUT THIS MARK.

PRO PER

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NOW ENTERS THE DEFENDANT, with a motion to modify the sentencing guidelines originally arranged on 07/22/2015. During my examination of the case on 11/14/2016, and after discovery of information that is to be addressed by the U.S. Department of Justice, and the Attorney Grievance Commission, I have inclined the possibility of a remedy which should suffice the courts as well as myself due to the nature of this case. After the discovery of the methodology of Detective Phillip Swiercz of the Wyoming Police Department, subject-matter jurisdiction has been

established in U.S. District Court before the Honorable Paul L. Maloney P-25194 in the adoption of a Report and Recommendation by the Honorable Ray Kent P-44156, IN PART, with regards to infringement of my Fifth Amendment protection and of Article 17 of the Michigan Constitution. The Honorable J. Joseph Rossi has responded to my concern indicating that it would be prudent to await the response from either the President of the United States, a one Honorable Donald J. Trump, or from the U.S. Attorney General's Office or from the Michigan State Attorney General's Office before handing down his opinion, I would like to respectfully submit said motion to modify the sentencing guidelines in the effort of a possible remedy should above offices hand down a favorable opinion. Per the instructions of the Michigan Parole Board, Grandview Plaza Building: P.O. Box 30003 Lansing, Michigan 48909 517-335-1426, through an, "Application for Pardon or Commutation of Sentence" (Current Michigan Prisoner Only), The Michigan Parole Board has suggested that this would be the process that I would want to pursue. In-conjunction with this, I would like this honorable court to consider my allowance to go through the "Adult Diversion Program" through the Kent County Prosecutors Office after full compliance with my probation and treatment with the Collaborative Counseling Services at 436 44<sup>th</sup> St, Kentwood, Michigan 49548 616-233-0360 with M.D.O.C. Therapist David Burghuis M.A., L.L.P.

If it pleases the courts, and I am able to successfully achieve the above mentioned, with the agreement of the Kent County Prosecutor's Office as well, that the consideration of the "Adult Diversion Program" accepts me into the program and that after successful completion of my probation with affirmation from Probation Officer Steven Meyers, that I may receive the following:

1. That court record 14-11012-FH be sealed and placed off of the system for background checks.
2. That my M.D.O.C. record be extracted and destroyed.
3. That I may be allowed to be taken off of S.O.R.A. **Including Michigan State Police.**
4. That I may pursue the expungement process through the 17<sup>th</sup> Judicial Circuit Court.

LEGEND FOR THE PROSECUTOR'S OFFICE IN ANSWERING THE FOLLOWING FOUR REQUEST- AFFIRMED, OR DENIED.

REQUEST NO.: (Please circle the following).

1. AFFIRMED OR DENIED
2. AFFIRMED OR DENIED
3. AFFIRMED OR DENIED

4. AFFIRMED OR DENIED

If the court is in agreement of this potential arrangement, I would please ask that this be officially entered in as a matter of record, if it so pleases the court upon response and affirmation from the prosecutor's office.

By the agreement of the Circuit Court Judge of the 17<sup>th</sup> Circuit and the Kent County Prosecutor;  
IT IS SO ORDERED:

\_\_\_\_\_  
(KENT COUNTY PROSECUTOR'S OFFICE).  
CHRISTOPHER R. BECKER P-53752.  
82 IONIA AVE SUITE NO.: 450.  
GRAND RAPIDS, MICHIGAN 49503.  
616-632-6710.

\_\_\_\_\_  
THE HONORABLE: J. JOSEPH ROSSI P-53941.  
17<sup>th</sup> JUDICIAL CIRCUIT COURT.  
180 OTTAWA AVE NW  
GRAND RAPIDS, MICHIGAN 49503.  
616-632-5020.

**CERTIFIED BY THE COURT CLERK OF SIXTH CIRCUIT COURT OF  
APPEALS.**

SUBSCRIBED AND SWORN BEFORE ME THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2017

IN THE COUNTY OF:

\_\_\_\_\_, \_\_\_\_\_  
COUNTY SIGNATURE OF NOTARY

SEAL SIXTH CIRCUIT COURT CLERK NOTARY:

\_\_\_\_\_, \_\_\_\_\_  
STAMP OF NOTARY MY COMMISSION EXPIRES.

Respectfully submitted:

/s/ Mr. Stacey R. Smith.

United States of America.  
Sixth Circuit Court of Appeals.  
Potter Stewart U.S. Courthouse.  
100 East Fifth Street.  
Cincinnati, Ohio 45202.  
513-564-7000.

---

CCA CASE NO.: 17-1022.  
CASE NO.: 14-11012-FH.  
HON.: J. JOSEPH ROSSI. P-53941.

PEOPLE OF THE STATE OF MICHIGAN.

(KENT COUNTY PROSECUTOR'S OFFICE).  
CHRISTOPHER R. BECKER P-53752.  
82 IONIA AVE SUITE NO.: 450.  
GRAND RAPIDS, MICHIGAN 49503.  
616-632-6710.

V. } MOTION TO MODIFY SENTENCING.

STACEY R. SMITH  
855 KALAMAZOO AVE SE  
GRAND RAPIDS, MICHIGAN 49507.  
616-350-5709.

FINAL DRAFT.  
DISREGARD ALL OTHER CORRESPONDENCE  
WITHOUT THIS MARK.

PRO PER

---

NOTARY.

NOTARY.

SUBSCRIBED AND AFFIRMED BY THE COURT CLERK OF 17<sup>TH</sup> JUDICIAL CIRCUIT  
COURT.

CASE NO.: 14-11012-FH.  
HON.: J. JOSEPH ROSSI. P-53941.

---

SIGNATURE OF STACEY R. SMITH ONLY.

**CERTIFIED BY THE COURT CLERK OF SIXTH CIRCUIT COURT OF  
APPEALS.**

SUBSCRIBED AND SWORN BEFORE ME THIS \_\_\_\_ DAY OF \_\_\_\_ 2017

IN THE COUNTY OF:

\_\_\_\_\_,  
COUNTY SIGNATURE OF NOTARY

SEAL OF THE SIXTH CIRCUIT COURT CLERK NOTARY:

\_\_\_\_\_,  
STAMP OF NOTARY MY COMMISSION EXPIRES.



United States of America.  
Sixth Circuit Court of Appeals.  
Potter Stewart U.S. Courthouse.  
100 East Fifth Street.  
Cincinnati, Ohio 45202.  
513-564-7000.

---

IN RE SMITH

APPELLANT,

MCA CASE NO.: 336537  
U.S. DISTRICT: 1:16-cv-1381  
CCA CASE NO.: 17-1022  
DOJ REFERENCE: 3749088  
JTC REFERENCE: 16-22385  
AGC REFERENCE: 16-1551

LOWER COURT: 14-11012-FH

STACEY R. SMITH

33\*

APPELLANT  
PRO SE, IN PRO PER

} SIXTH CIRCUIT APPEAL AND COUNTER-COMPLAINT.

AFFIRMATION FOR SUPERINTENDING  
CONTROL. (WRIT OF MANDAMUS EXTRODINAIRE).  
MCL 600.4401 (1). EXPARTE REQUEST FOR JUDICIAL  
REVIEW. 28 § U.S.C. 1361. AFFIRMED BY:  
U.S. DISTRICT JUDGE PAUL L. MALONEY P-25194.

State of Michigan.  
In The Michigan Court of Appeals.  
350 Ottawa Ave NW.  
Grand Rapids, Michigan 49503.  
616-456-1167.

IN RE SMITH

APPELLANT,

MCA CASE NO.: 336537  
U.S. DISTRICT: 1:16-cv-1381  
CCA CASE NO.: 17-1022  
DOJ REFERENCE: 3749088  
JTC REFERENCE: 16-22385  
AGC REFERENCE: 16-1551

LOWER COURT: 14-11012-FH

STACEY R. SMITH

APPELLANT  
PRO SE, IN PRO PER

} MCA REBUTTAL AND COUNTER-ARGUMENT.

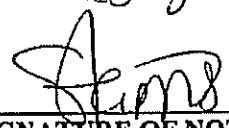
AFFIRMATION FOR SUPERINTENDING  
CONTROL. (WRIT OF MANDAMUS EXTRODINAIRE).  
MCL 600.4401 (1). EXPARTE REQUEST FOR JUDICIAL  
REVIEW. 28 § U.S.C. 1361. AFFIRMED BY:  
U.S. DISTRICT JUDGE PAUL L. MALONEY P-25194.

  
SIGNATURE OF STACEY R. SMITH ONLY.  
NOTARY.

SUBSCRIBED AND SWORN BEFORE ME THIS 23 DAY OF February 2017

IN THE COUNTY OF:

Kent  
COUNTY

  
SIGNATURE OF NOTARY

SHONDA JAMES  
NOTARY PUBLIC - STATE OF MICHIGAN  
COUNTY OF KENT  
MY COMMISSION EXPIRES 08/05/2019  
Acting in the County of Kent

STAMP OF NOTARY

SEAL OF NOTARY:

08/05/2019  
MY COMMISSION EXPIRES.



# Office of the Administrator

Thomas J. Dempsey, Corporate Counsel

Phone: (616) 632-7573 • Fax: (616) 632-7585 • e-mail: Tom.Dempsey@kentcountymi.gov

COPY



February 16, 2017

Clerk of the Court  
State of Michigan Court of Appeals  
State Office Building  
350 Ottawa NW  
Grand Rapids, Michigan 49503-2349

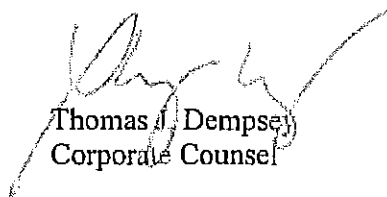
Re: Matter of Smith  
Case No. 14-011012-FH

Dear Clerk of the Court:

Regarding the above noted matter, enclosed is the *Defendants' Appearance, Brief on Appeal* and *Proof of Service* indicating appropriate service of these same documents on Stacey Smith, Appellant, In Pro Per.

Thank you.

Very truly yours,

  
Thomas J. Dempsey  
Corporate Counsel

TJD/mvg

Enclosures

cc: Stacey Smith, Appellant

*"Kent County...Where Diversity & Inclusion Matter"*





STATE OF MICHIGAN  
IN THE COURT OF APPEALS

COPY

In re Smith

Appellant,

COA File No. 336537

Lower Court File No. 14-011012-FH

---

Stacey R. Smith  
Appellant, In Pro Per  
855 Kalamazoo Ave., SE  
Grand Rapids, Michigan 49507

Thomas J. Dempsey (P48792)  
Kent County Corporate Counsel  
Attorney for Appellees 17<sup>th</sup> Circuit Court and the Hon. Geo. S. Buth (retired)  
300 Monroe Avenue NW  
Grand Rapids, Michigan 49503-2206

---

**APPEARANCE OF COUNSEL**

TO: CLERK OF THE COURT

Pursuant to MCR 7.204(G), please enter the appearance of Thomas J. Dempsey, Kent County Corporate Counsel, as attorney of record for Appellee 17<sup>th</sup> Circuit Court and the Hon. Judge George S. Buth (retired), in the above cause.

**KENT COUNTY**

Dated: February 16, 2017

By: 

Thomas J. Dempsey (P48792)  
Assistant Corporate Counsel



STATE OF MICHIGAN  
IN THE COURT OF APPEALS

---

COPY

In re Smith

Appellant,

COA File No. 336537

Lower Court File No. 14-011012-FH

---

Stacey R. Smith  
Appellant, In Pro Per  
855 Kalamazoo Ave., SE  
Grand Rapids, Michigan 49507

Thomas J. Dempsey (P48792)  
Kent County Corporate Counsel  
Attorney for Appellees 17<sup>th</sup> Circuit Court and the Hon. Geo. S. Buth (retired)  
300 Monroe Avenue NW  
Grand Rapids, Michigan 49503-2206

---

**BRIEF ON APPEAL**

**OF**

**APPELLEES 17<sup>th</sup> CIRCUIT COURT AND HON. JUDGE GEORGE S. BUTH  
(RETIRED)**

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### **STATEMENT OF JURISDICTION**

Appellant filed this matter as a claim for mandamus under MCL 600.440. Appellant simultaneously filed this matter with the U.S. Federal Court for the Western District of Michigan and also the U.S. 6<sup>th</sup> Circuit Court of Appeals in Cincinnati.

This Court has categorized this matter as a Complaint for Superintending Control.





**QUESTIONS PRESENTED**

The only question before this Court is whether the Appellant has stated a viable claim for superintending control against the 17<sup>th</sup> Circuit Court and the Honorable Judge George S. Butth (retired)?

Appellees answer: No

Appellant answers: Yes



## **COUNTER-STATEMENT OF FACTS**

### **1. Trial Court Factual Background.**

Appellant was prosecuted in the 17<sup>th</sup> Circuit Court in a matter assigned to and handled by Judge Buth. In this matter, Appellant, represented by counsel, entered a plea to the charges. Appellant subsequently was sentenced and now appears to contest the entry of his plea and sentence apparently asserting ineffective assistance of counsel and misdeeds by the prosecutors involved and the Circuit Court.

### **2. Rejected Pleadings.**

On December 19, 2016, Appellant apparently filed the pleadings currently before this Court with the U.S. District Court for the Western District of Michigan. The District Court rejected the pleadings as “nonsensical in nature.” See copy of Order dated December 22, 2016, attached as Exhibit 1.

### **3. Appellant’s Multi-Track Litigation: Post-Verdict Motions in the 17<sup>th</sup> Circuit Court and Simultaneous Complaint for Superintending Control and This Court.**

Appellant continues to litigate and exercise remedies available to him in the 17<sup>th</sup> Circuit Court. Appellee received a Motion to Modify Sentencing on February 14, 2017. See Exhibit 2.

As noted above, Appellant also is filing various documents with multiple other courts. See Appellant’s Complaint at page 1 at caption.



## LAW AND ARGUMENT

### THIS COURT SHOULD DISMISS APPELLANT'S COMPLAINT FOR SUPERINTENDING CONTROL

#### 1. Standard of Review

"The grant or denial of a petition for superintending control is within the sound discretion of the court. Absent an abuse of discretion, this Court will not disturb the denial of a request for an order of superintending control. *In re Goehring*, 184 Mich. App. 360, 366 457 N.W.2d 375 (1990). A court does not abuse its discretion in refusing to grant a writ of superintending control where the party seeking the writ fails to establish grounds for granting a writ. *Shepherd Montessori Ctr. Milan v. Ann Arbor Charter Twp.*, 259 Mich.App. 315, 347, 675 N.W.2d 271 (2003). "For superintending control to lie, the petitioners must establish that the respondents have failed to perform a clear legal duty and the absence of an adequate legal remedy." *Recorder's Court Bar Ass'n v. Wayne Circuit Court*, 443 Mich. 110, 134, 503 N.W.2d 885 (1993) (emphasis in original).

#### 2. Michigan Case Law and MCR 3.302 Compel the Dismissal of Appellant's Complaint for Superintending Control as Appellant Has and Is Using Other Adequate Remedies and Has Not Shown He Is Entitled to Extraordinary Relief.

In a viable complaint for superintending control, the plaintiff must establish that the defendant has failed to perform a clear legal duty and that plaintiff is otherwise without an adequate legal remedy. *In re Credit Acceptance Corp.*, 273 Mich. App. 594, 598, 733 N.W.2d 65 (2007), *aff'd* 481 Mich. 883, 748 N.W.2d 883 (2008).

The extraordinary power of superintending control may only be exercised when a plaintiff has established that a clear legal duty has not been performed and that no other





adequate legal remedy exists. MCR 3.302(B); *Recorder's Court Bar Ass'n v. Wayne Circuit Court*, 443 Mich. 110, 134; 503 NW2d 885 (1993); *Shepherd Montessori Ctr Milan v. Ann Arbor Twp*, 259 Mich. App 315, 347; 675 NW2d 271 (2003). The availability of a legal remedy by way of an appeal precludes this Court from exercising superintending control and requires that the complaint for superintending control be dismissed. MCR 3.302(D)(2); *Shepherd Montessori, supra* at 347; *Choe v. Flint Charter Twp*, 240 Mich. App 662, 667; 615 NW2d 739 (2000). An aggrieved party has a right to appeal a final order of a circuit court, MCR 7.203(A)(1), and may seek leave to appeal a circuit court order that is not a final order, MCR 7.203(B)(1).

**"If another adequate remedy is available to the party seeking the order, a complaint for superintending control may not be filed."** MCR 3.302(B) (emphasis added).

**"When an appeal in the Supreme Court, the Court of Appeals, the circuit court, or the recorder's court is available, that method of review must be used. If superintending control is sought and an appeal is available, the complaint for superintending control must be dismissed."** MCR 3.302(D)(2) (emphasis added).

Appellant cannot meet the requirements concise requirements for superintending control including the requirements clearly set forth in MCR 3.302(B) and MCR 3.302(D).

Appellant has adequate remedies available to him and he continues to avail himself of these available remedies. Appellant's Complaint for Superintending Control apparently concerns the terms of his sentence following his conviction. Appellant continues to actively engage in litigation concerning the terms of his sentence in the 17<sup>th</sup> Circuit Court. As of the date of this brief, Appellant has a motion pending in the 17<sup>th</sup> Circuit Court attempting to modify his sentence. Consequently, by his own actions in filing a



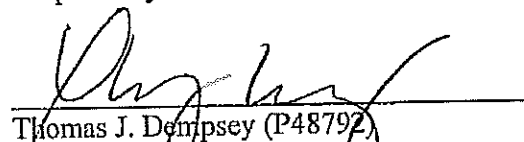
and seeking a hearing after the filing of his Complaint for Superintending Control, the Appellant has proven he has available remedies thus precluding the issuance of an Order of Superintending Control under the explicit terms of MCR 3.302.

In addition to the on-going litigation in the trial court, the Appellant also has the right to file a standard appeal but has not done so. MCR 3.302(D) clearly states that where an appeal is available, superintending control is not available. Conversely, as an appeal is available, MCR 3.302(D)(2) demands and compels the dismissal of this Complaint.

The Appellant has provided no evidence that these remedies are unavailable. Conversely, the Appellant has and continues to avail himself of these very remedies proving he does not meet the requirements of MCR 3.302 and is not entitled to superintending control.

**WHEREFORE**, Appellee 17<sup>th</sup> Circuit Court, Hon. Judge Buth (retired) and Kent County respectfully request that this Court dismiss with prejudice Appellant's Motion for Superintending Control.

Respectfully submitted,



Thomas J. Dempsey (P48792)  
Kent County Corporate Counsel  
Attorney for Appellees 17<sup>th</sup> Circuit Court and the  
Hon. Geo. S. Buth (retired)  
300 Monroe Avenue NW  
Grand Rapids, Michigan 49503-2206





**Exhibit 1**



UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

STACEY R. SMITH,

Plaintiff,

v.

GEORGE S. BUTH,

Defendant.

---

Case No. 1:16-cv-01381-PLM-RSK

Hon. Paul L. Maloney

ORDER REJECTING PLEADING

The Court has examined the following document(s) received December 19, 2016 and orders the Clerk to reject the Miscellaneous Documents and return the document(s) to Stacey R. Smith for the reason(s) noted below:

Stacey R. Smith has submitted documents which are nonsensical in nature. If Stacey R. Smith intends for such documents to be used as exhibits, he must submit the documents attached to a pleading, motion or brief, specifically setting out the purpose and relevance to this case.

IT IS SO ORDERED.

Dated: December 22, 2016

/s/ Ray Kent  
RAY KENT  
U.S. Magistrate Judge



**Exhibit 2**





Case 1:16-cv-01381-PLM-RSK ECF No. 13 filed 01/04/17 PageID.236 Page 1 of 5

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

STACEY R. SMITH,

Plaintiff,

v.

GEORGE S. BUTH,

Defendant.

---

Case No. 1:16-cv-1381  
Hon. Paul L. Maloney

**REPORT AND RECOMMENDATION**

This is a civil action brought by a *pro se* plaintiff, who was allowed to file the present action *in forma pauperis* pursuant to § 1915. This action is subject to judicial screening under 28 U.S.C. § 1915(e)(2)(B), which provides that the Court “shall dismiss” actions brought *in forma pauperis* “at any time if the court determines that . . . the action . . . (ii) fails to state a claim on which relief may be granted; or (iii) seeks monetary relief against a defendant who is immune from such relief.” For the reasons discussed below, plaintiff’s “Complaint of judicial misconduct or disability” (docket no. 1) should be dismissed.

**I. Discussion**

In determining whether a complaint should be dismissed for failure to state a claim under § 1915(e)(2), the Court applies the dismissal standard articulated in *Ashcroft v. Iqbal*, 556 U.S. 662 (2009) and *Bell Atlantic Corporation v. Twombly*, 550 U.S. 544 (2007). See *Hill v. Lappin*, 630 F.3d 468, 470-71 (6th Cir. 2010).

To survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to “state a claim to relief that is plausible on its face.” A

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claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged. The plausibility standard is not akin to a “probability requirement,” but it asks for more than a sheer possibility that a defendant has acted unlawfully. Where a complaint pleads facts that are “merely consistent with” a defendant’s liability, it “stops short of the line between possibility and plausibility of ‘entitlement to relief.’”

*Iqbal*, 556 U.S. at 678 (internal citations omitted). “[T]he pleading standard Rule 8 announces does not require ‘detailed factual allegations,’ but it demands more than an unadorned, the-defendant-unlawfully-harmed-me accusation.” *Id.*, citing *Twombly*, 550 U.S. at 555.

Here, plaintiff’s “[c]omplaint of judicial misconduct or disability” is directed at a state judge, the Honorable George S. Buth of Michigan’s 17th Judicial Circuit Court. The complaint is subject to dismissal for three reasons. First, the Court should dismiss this complaint for lack of jurisdiction. “[A] district court may, at any time, *sua sponte* dismiss a complaint for lack of subject matter jurisdiction pursuant to Rule 12(b)(1) of the Federal Rules of Civil Procedure when the allegations of a complaint are totally implausible, attenuated, unsubstantial, frivolous, devoid of merit, or no longer open to discussion.” *Apple v. Glenn*, 183 F.3d 477, 479 (6th Cir. 1999). The Court has a duty to read a *pro se* plaintiff’s complaint indulgently. *See Haines v. Kerner*, 404 U.S. 519 (1972); *Kent v. Johnson*, 821 F. 2d 1220, 1223-24 (6th Cir. 1987). Here, however, even the most liberal reading of plaintiff’s allegations cannot be construed as setting forth a federal cause of action against defendant. There are no allegations set forth in plaintiff’s complaint to establish subject matter jurisdiction in this Court. Plaintiff’s complaint simply lists the state court judge, plaintiff’s defense counsel, and a case number. *See Compl.* at PageID.1-4. Accordingly, plaintiff’s complaint should be dismissed for lack of jurisdiction under Fed. R. Civ. P. 12(b)(1).

Case 1:16-cv-01381-PLM-RSK ECF No. 13 filed 01/04/17 PageID.238 Page 3 of 5

Second, plaintiff has failed to state a claim against defendant. This Court does not discipline state court judges for alleged judicial misconduct. "Federal courts do not supervise or monitor the state courts or state court judges." *Morris v. Tennessee*, No. 06-2007-M1/P, 2006 WL 1579575 at \*2 (W.D. Tenn. May 31, 2006). In this regard,

Federal courts have no authority to issue writs of mandamus to direct state officials to conform their conduct to state law. *Pennhurst State School & Hospital v. Halderman*, 465 U.S. 89 (1984); *Haggard v. Tennessee*, 421 F.2d 1384 (6th Cir. 1970).

*MacLeod v. Pavlich*, No. 2:16-CV-240, 2016 WL 6775474 at \*2 (W.D. Mich. Nov. 16, 2016).

Accordingly, plaintiff's complaint should be dismissed for failure to state a claim on which relief may be granted pursuant to § 1915(e)(2)(B)(ii).

Third, plaintiff's complaint is barred because judges are entitled to absolute judicial immunity from suits arising out of the performance of their judicial functions. *Mireles v. Waco*, 502 U.S. 9, 9-11 (1991); *Pierson v. Ray*, 386 U.S. 547, 553-54 (1967); *Brookings v. Clunk*, 389 F.3d 614, 617 (6th Cir. 2004). "A judge is absolutely immune from liability for his judicial acts even if his exercise of authority is flawed by the commission of grave procedural errors." *Stump v. Sparkman*, 435 U.S. 349, 359 (1978). A judge will not be deprived of immunity because the action he took was in error or exceeded his authority. *Mireles*, 502 U.S. at 12-13. Judicial immunity applies "however erroneous the act may have been, and however injurious in its consequences it may have proved to the plaintiff." *Cleavinger v. Saxner*, 474 U.S. 193, 199-200 (1985) (quoting *Bradley v. Fisher*, 80 U.S. (13 Wall.) 335, 347 (1872)). As the Supreme Court explained in *Forrester v. White*, 484 U.S. 219 (1988):

If judges were personally liable for erroneous decisions, the resulting avalanche of suits, most of them frivolous but vexatious, would provide powerful incentives for

Case 1:16-cv-01381-PLM-RSK ECF No. 13 filed 01/04/17 PageID.239 Page 4 of 5

judges to avoid rendering decisions likely to provoke such suits. The resulting timidity would be hard to detect or control, and it would manifestly detract from independent and impartial adjudication. Nor are suits against judges the only available means through which litigants can protect themselves from the consequences of judicial error. Most judicial mistakes or wrongs are open to correction through ordinary mechanisms of review, which are largely free of the harmful side-effects inevitably associated with exposing judges to personal liability.

*Forrester*, 484 U.S. at 226-27.

A judge's immunity is overcome in only two situations: (1) nonjudicial actions (i.e., actions not taken in the judge's official capacity); and (2) judicial actions taken in the complete absence of all jurisdiction. *Mireles*, 502 U.S. at 10-11. Plaintiff has not alleged either exception to judicial immunity. Indeed, plaintiff does not allege that defendant engaged in any wrongful action or misconduct. Other papers filed in this action indicate that the underlying state case involved a sex offense and that Judge Buth sentenced plaintiff to 24 months' probation, costs and fees. *See* Sent. Trans. (docket no. 5-1, PageID.117-118). As this Court previously observed, "[a]llegations arising from [a] Plaintiff's challenges to his state criminal proceedings involve the performance of judicial duties and fail to implicate either of the exceptions to judicial immunity." *Bradstreet v. Calhoun County Board of Commissioners*, No. 1:08-cv-1034, 2008 WL 5083532 at \*3 (W.D. Mich. Nov. 26, 2008). Because defendant is entitled to absolute judicial immunity in this case, the complaint against him should be dismissed pursuant to § 1915(c)(2)(B)(ii).<sup>1</sup>

---

<sup>1</sup> The Court notes that among the other papers filed by plaintiff in this action was a partially-completed petition for habeas relief under 28 U.S.C. § 2254. *See* Supplement (docket no. 6). If plaintiff is seeking to challenge the validity of his state court criminal conviction or sentence, then his sole federal remedy would be filing a petition for habeas relief.



Case 1:16-cv-01381-PLM-RSK ECF No. 13 filed 01/04/17 PageID.240 Page 5 of 5

## II. RECOMMENDATION

For the foregoing reasons, I respectfully recommend that plaintiff's action be **DISMISSED**.

Dated: January 4, 2017

/s/ Ray Kent  
RAY KENT  
United States Magistrate Judge

ANY OBJECTIONS to this Report and Recommendation must be served and filed with the Clerk of the Court within ten (10) days after service of the report. All objections and responses to objections are governed by W.D. Mich. LCivR 72.3(b). Failure to serve and file written objections within the specified time waives the right to appeal the District Court's order. *Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).



Case 1:16-cv-01381-PLM-RSK ECF No. 19 filed 01/25/17 PageID.401 Page 1 of 4

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

STACEY R. SMITH,	)	
	)	
Plaintiff,	)	No. 1:16-cv-1381
	)	
-v-	)	
	)	Honorable Paul L. Maloney
GEORGE S. BUTH,	)	
	)	
Defendant.	)	
	)	

---

**ORDER ADOPTING REPORT AND RECOMMENDATION AND DISMISSING  
ACTION**

Plaintiff Stacey Smith filed his lawsuit on December 1, 2016. Smith was granted leave to proceed *in forma pauperis*. Smith is acting without the benefit of counsel. The matter was referred to the magistrate judge, who issued a report recommending that the lawsuit be dismissed. (ECF No. 13.) Smith filed objections. (ECF No. 18.) The Court has reviewed the complaint, the magistrate judge's report, the objections, and the relevant law.

After being served with a report and recommendation (R&R) issued by a magistrate judge, a party has fourteen days to file written objections to the proposed findings and recommendations. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). A district court judge reviews de novo the portions of the R&R to which objections have been filed. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). Only those objections that are specific are entitled to a de novo review under the statute. *Mira v. Marshall*, 806 F.2d 636, 637 (6th Cir. 1986) (per curiam) (holding the district court need not provide de novo review where the objections are frivolous, conclusive or too general because the burden is on the parties to "pinpoint those portions of the magistrate's report that the district court must specifically consider"). The

Case 1:16-cv-01381-PLM-RSK ECF No. 19 filed 01/25/17 PageID.402 Page 2 of 4

United States Supreme Court has held that the statute does not "positively require[] some lesser review by the district court when no objections are filed." *Thomas v. Arn*, 474 U.S. 140, 150 (1985).

Because Smith is acting *pro se*, this Court must liberally construe his pleadings and other filings. See *Boswell v. Mayer*, 169 F.3d 384, 387 (6th Cir. 1999); *Owens v. Keeling*, 461 F.3d 763, 776 (6th Cir. 2006) (citing *Spotts v. United States*, 429 F.3d 248, 250 (6th Cir. 2005) (citing *Haines v. Kerner*, 404 U.S. 519, 520 (1972))). Liberally construing the complaint, Smith alleges various problems that occurred during his criminal prosecution in state court. The defendant in this case is Judge George Butth, who presided over the criminal prosecution.

1. Jurisdiction. The magistrate judge concluded the complaint does not plead a federal cause of action, which is required for this Court to exercise subject-matter jurisdiction. Federal courts have original jurisdiction over claims brought under federal law, 28 U.S.C. § 1331, and also over claims where the parties are citizens of different states, 28 U.S.C. § 1332, so long as the amount in controversy exceeds \$75,000. Smith and Butth are both citizens of Michigan, so this Court cannot exercise jurisdiction over the complaint under the diversity statute. For the Court to exercise jurisdiction, Smith must state a claim against Butth under federal law.

Liberally reading Smith's objection, this Court has jurisdiction over his complaint. In his objection, Smith suggests that his Fifth Amendment right from self-incrimination and his due process rights were violated during the underlying criminal proceeding. It is not clear that Smith is alleging that Judge Butth violated Smith's rights. For the sake of argument only,

Case 1:16-cv-01381-PLM-RSK ECF No. 19 filed 01/25/17 PageID.403 Page 3 of 4

the Court will assume that Smith has alleged that Buth's conduct during the criminal action gave rise to the constitutional violations.

2. Failure to State a Claim. The magistrate judge concluded that the complaint failed to state a claim because federal courts do not supervise or monitor state courts or state judges.

Smith has not demonstrated that he has a viable cause of action for which this Court can provide relief. To the extent Smith believes the state court erred or violated his constitutional rights, his remedy is an appeal to the state court of appeals. Smith's reference to 28 U.S.C. § 1361 is not persuasive. The statute, also known as the All Writs Act, authorizes federal district courts to compel certain action by a federal officer or employee. The statute does not authorize federal district courts to order state court judges to act through a writ of mandamus. *Wallace v. Hayse*, 25 F.3d 1052 (6th Cir. 1994) (unpublished order); accord, *In re Rohland*, 538 F.App'x 139, 140-41 (3d Cir. 2013) (same); *Bailey v. Silberman*, 226 F.App'x 922, 924 (11th Cir. 2007) (same).

3. Judicial Immunity. The magistrate judge concluded that, to the extent Smith's claims against Judge Buth arise from conduct during the criminal proceedings, the claims are barred by judicial immunity.

Smith has not established that his claims fall outside the broad grant of judicial immunity. Again, to the extent he believes Judge Buth erred, Smith's remedy is an appeal, not a federal civil lawsuit.

For these reasons, the report and recommendation (ECF No. 13) is **ADOPTED IN PART**. The Court concludes that Smith has stated a claim over which this Court has subject-matter jurisdiction. Smith alleges violations of his rights protected by the constitution.



Case 1:16-cv-01381-PLM-RSK ECF No. 19 filed 01/25/17 PageID.404 Page 4 of 4

Nevertheless, this Court must dismiss the lawsuit. Smith has failed to state a claim for which this Court can grant relief. This Court does not supervise state court proceedings and this Court has no authority to order state court judges to perform their duties. To the extent Smith's claims against Judge Butth arise from the manner in which the criminal action was conducted, Butth is entitled to judicial immunity.

The Court finds that any appeal would be frivolous. Viewing each claim objectively, any appeal would not be taken in good faith. Accordingly, the Court will not issue a Good Faith Certification. *See* 28 U.S.C. § 1915(a)(3); *Coppedge v. United States*, 369 U.S. 438, 445 (1962).

**IT IS SO ORDERED.**

Date: January 25, 2017

/s/ Paul L. Maloney  
Paul L. Maloney  
United States District Judge

Case 1:16-cv-01381-PLM-RSK ECF No. 20 filed 01/25/17 PageID.405 Page 1 of 1

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

STACEY R. SMITH,	)	
Plaintiff,	)	
	)	No. 1:16-cv-1381
-v-	)	
	)	Honorable Paul L. Maloney
GEORGE S. BUTH,	)	
Defendant.	)	
_____		

**JUDGMENT**

The Court has concluded that Stacey Smith's complaint fails to state a claim for which relief may be granted. All pending claims have been dismissed. As required by Rule 58 of the Federal Rules of Civil Procedure, **JUDGMENT ENTERS.**

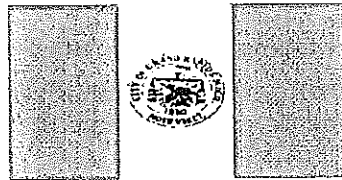
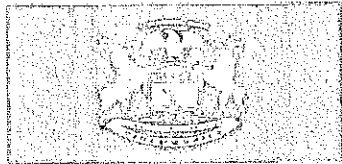
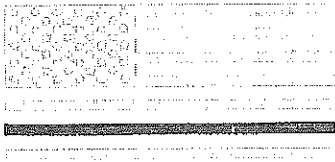
**THIS LAWSUIT IS TERMINATED.**

**IT IS SO ORDERED.**

Date: January 25, 2017

/s/ Paul L. Maloney  
Paul L. Maloney  
United States District Judge





**State of Michigan.**

**In the Michigan Court of Appeals.**

**350 Ottawa Ave NW**

**Grand Rapids, Michigan 49503.**

Mr. Stacey R. Smith  
855 Kalamazoo Ave SE  
Grand Rapids, Michigan 49507.  
616-350-5709.

CASE NO.: 336537.

LOWER COURT CASE NO: 14-11012-FH.

APPELLEE'S DEFENSE COUNSEL:  
THOMAS J. DEMPSEY P-48792.  
KENT COUNTY CORPORATE COUNSEL.  
17<sup>TH</sup> CIRCUIT COURT AND THE HON. GEORGE S. BUTH.  
300 MONROE AVE NW  
GRAND RAPIDS, MICHIGAN 49503-2206.

02/24/2017.

REFERENCE: CITED COURT LAW CORRECTION IN APPELLANT'S PLEADING.

Dear Honorable Court of the Michigan Court of Appeals and Appellee's Defense Counsel. Please be advised of the attempt to correct the citing in the Appellant's recent submission of my "MCA Rebuttal and Counter-Argument" which had been sent on 02/23/2017. In the Brief, I attempted to cite the Michigan Compiled Law of MCL 600.4401 whereas I cited it as a Michigan Court Rule in error. Note carefully distinguishing between the two, I confused myself in citing what is a law as a court rule. If the Honorable Court could recognize this correction and apply it properly as MCL 600.4401 (1) as I cited it mistakably as MCR 600.4401 in error. If the court as well as Appellee's Defense Counsel could recognize and caption in the Appellant's Brief in regards to the errored citing of (MCR 600.4401) as (MCL 600.4401) as reference to the Michigan Compiled Laws of the State of Michigan instead of the Michigan Court Rules.

Also, enclosed you should find my response from the Michigan Attorney Grievance Commission dated February 17, 2017 from a one Ms. Ruthann Stevens, Senior Associate Counsel of the Michigan Attorney Grievance Commission who was assigned to my complaint with regards to Joshua Kuiper P-66576 AGC File No.: 17-0456, Kevin Bramble P-38380 AGC File No.: 17-0453, Chris Becker P-53752 AGC File No.: 17-0454, and John R. Beason P-34095 AGC File No.: 17-0455. The original case number file with the commission stems from AGC 16-1551. With regards to this, the commission has responded informing me that the complaints that I have submitted are not actionable by the commission and has decided to close the complaint under the authority of the Grievance Administrator pursuant to MCR 9.112 (C) (1) (a). Ms. Stevens also has indicated that though I remain unsatisfied with the outcome of my case, that claims of prosecutorial misconduct are best resolved through the court system and that herself and the commission recommends that I pursue **appellate** remedies. The Appellant feels that the Appellant Court should consider the following:

Pursuant to MCR 7.211 (A) (3) – A motion to affirm Appellant's Brief.

MCR 7.211 (3) (C) – Trial Court abused its discretion.

MCR 7.211 (4) – A Motion for immediate consideration.

MCR 7.211 (C) (3) (a) – Motion to affirm Appellant's Brief because of abuse of discretion.

MCR 7.211 (C) (a) – A confession of error by the prosecutor be assumed.

MCR 7.211 (C) (a) – A motion to seal appellant case no: 336537 and lower court case no: 14-11012-FH in WHOLE.

And a Motion to Exonerate the Appellant.



With affirmation of the Motion to Modify Sentencing with the signature of the Kent County Prosecutor Lead Prosecutor Christopher R. Becker P-53752 and the lower court judge Hon: J. Joseph Rossi P-53941 of the 17<sup>TH</sup> Circuit Court.

The Appellant prays for relief as he awaits the Appellant Courts decision.

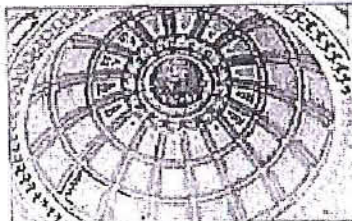
Thank you and best regards:

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Stacey R. Smith', is written over a horizontal line.

MR. STACEY R. SMITH.  
APPELLANT.  
855 KALAMAZOO AVE SE  
GRAND RAPIDS, MICHIGAN 49507.  
616-350-5709.





# MICHIGAN LEGISLATURE

Michigan Compiled Laws Complete Through PA 471 of 2016  
House: Adjourned until Tuesday, February 21, 2017 1:30:00 PM  
Senate: Adjourned until Tuesday, February 21, 2017 10:00:00 AM

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[Act 236 of 1961](#)  
[236-1961-44](#)  
[Section 600.4401](#)

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### REVISED JUDICATURE ACT OF 1961 (EXCERPT) Act 236 of 1961

**600.4401 Action for mandamus against state officer; commencement; rule for joinder of claims or consolidation of actions; rule for referral of action to circuit court.**

Sec. 4401.

(1) An action for mandamus against a state officer shall be commenced in the court of appeals, or in the circuit court in the county in which venue is proper or in Ingham county, at the option of the party commencing the action.

(2) The supreme court may provide by rule for the joinder of claims or consolidation of actions in the court of appeals or the circuit court if those claims or actions include a prayer for mandamus against a state officer and arise out of the same circumstances or raise a similar issue of law.

(3) The supreme court may provide by rule for the referral of an action from the court of appeals to the circuit court to determine and report its findings of fact or to hear and decide the action if substantial fact finding is necessary to determine the applicability of mandamus relief.

**History:** 1961, Act 236, Eff. Jan. 1, 1963 ;-- Am. 1967, Act 65, Imd. Eff. June 20, 1967 ;-- Am. 1976, Act 317, Eff. Jan. 1, 1977

**Compiler's Notes:** Section 2 of Act 317 of 1976 provides: "As provided by the rule of the supreme court, this amendatory act may apply to actions pending on January 1, 1977."

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## Kent County

## Joshua Kuiper

### Arrest Information

**Full Name:** Joshua James Kuiper  
**Date:** 02/02/2017  
**POLICE DEPARTMENT**

**Arresting Agency:** GRAND RAPIDS

### Personal Information

**Arrest Age:** 42  
**Gender:** Male  
**Birthdate:** 06/26/1974  
**Height:** 6'02"  
**Weight:** 210 lbs  
**Hair Color:** BROWN  
**Eye Color:** BROWN

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### See Joshua's Criminal Record

Name	State	Full Report
<a href="#">Joshua Kuiper</a>	<a href="#">MI</a>	
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### Charges

*Charges unknown*

### Comments



Joshua Kasper Mugshot, VA 02/17/2017

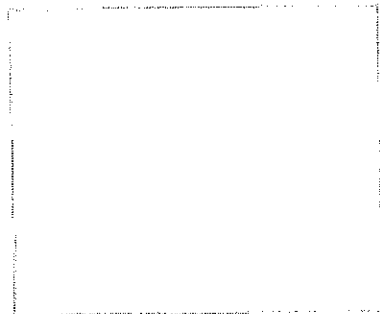
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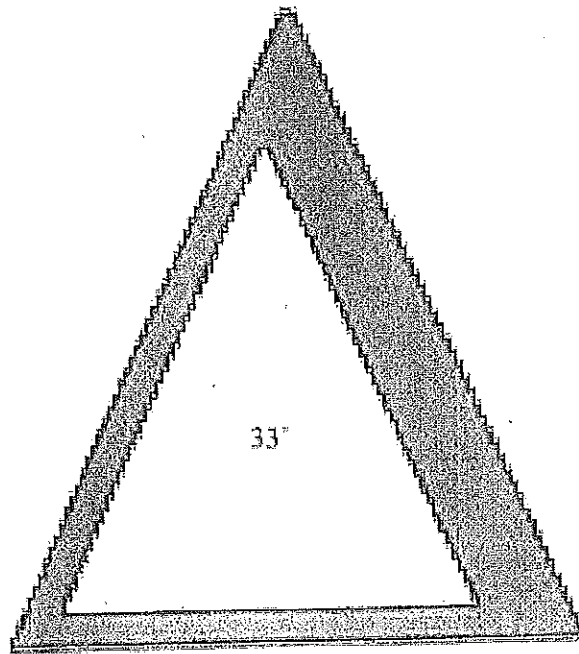
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Stacey R. Smith  
855 Kalama Zoo Ave SE  
Grand Rapids, MI 49507

File No.: 17-1022

Sixth Circuit Court of Appeals.  
Rother Stewart U.S. Courthouse  
100 East Fifth Street.  
Cincinnati, Ohio  
45202



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United States of America.  
Sixth Circuit Court of Appeals.  
Potter Stewart U.S. Courthouse.  
100 East Fifth Street.  
Cincinnati, Ohio 45202.  
513-564-7000.

IN RE SMITH  
APPELLANT,

COA CASE NO.: 336537  
U.S. DISTRICT: 1:16-cv-1381  
CCA CASE NO.: 17-1022  
DOJ REFERENCE: 3749088  
JTC REFERENCE: 16-22385  
AGC REFERENCE: 16-1551

LOWER COURT: 14-11012-FH

33°  
STACEY R. SMITH

APPELLANT  
PRO SE, IN PRO PER

V. } SIXTH CIRCUIT APPEAL AND COUNTER-COMPLAINT.

AFFIRMATION FOR SUPERINTENDING  
CONTROL. (WRIT OF MANDAMUS EXTRODINAIRE).  
MCL 600.4401 (1). EXPARTE REQUEST FOR JUDICIAL  
REVIEW. 28 § U.S.C. 1361. AFFIRMED BY:  
U.S. DISTRICT JUDGE PAUL L. MALONEY P-25194.  
**(A BRIEF OF REASONABLE DOUBT).**

GEORGE S. BUTH P-11479.

APPELLEE,

APPELLEE'S DEFENSE COUNSEL:  
THOMAS J. DEMPSEY P-48792.  
KENT COUNTY CORPORATE COUNSEL.  
17<sup>TH</sup> CIRCUIT COURT AND THE HON. GEORGE S. BUTH.  
300 MONROE AVE NW  
GRAND RAPIDS, MICHIGAN 49503-2206.

/



NOW ENTERS THE PLAINTIFF, IN RE, herein forth referred to as the “Appellant”, with regards to the appearance of Corporate Counsel on behalf of George S. Buth. It will be the Appellant’s intent to establish reasonable doubt for the newly assigned judge to case no.: 14-11012-FH, the Honorable J. Joseph Rossi with regard to said case number. Appellee’s Defense Counsel contends that a remedy is available in the 17<sup>TH</sup> Circuit Court without affirmation. Appellee’s Defense Counsel creates **reasonable doubt** with this contention. Appellant is willing to provide the 17<sup>TH</sup> Circuit Court with the, “Motion to Modify Sentencing”, for it to be considered and signed by the Honorable J. Joseph Rossi, and Lead Prosecutor Christopher R. Becker for consideration to be certified by the court clerk of the 17<sup>TH</sup> Circuit. Appellee’s Defense contends that Superintending Control is not need by the Michigan Court of Appeals while the Appellant has knowledge that the appellant procedure with the 17<sup>TH</sup> Circuit Court has expired within the known and acceptable time limit to file an appeal. This should cast a **reasonable doubt** as to the Appellee’s Defense Counsel stating that Superintending Control is not needed with this knowledge. Appellant contends that his concerns have been overlooked from the time he was charged up until now and all parties who were and are currently involved are purposely ignoring or taking a blinds eye to Appellant’s concerns from the beginning. The gross and intentional overlooking of Appellant’s concern is the highest WARRANT FOR SUPERINTENDING CONTROL. Along with this, Appellee’s abuse of discretion against Canon (2) (F) (8) of the Michigan Judicial Code of Conduct allowing Assistant Prosecutor Joshua Kuiper P-66576 to **knowingly** submit a fabricated charge of MCL 750.520C (1) (H) while being aware of my denial to the allegations 3 times in EXHIBIT (D) the police interview with Detective Phillip Swiercz of the Wyoming Police Department is profound grounds for **reasonable doubt**. Appellee’s Defense Counsel failing to answer or specify a confirmed remedy is also **reasonable doubt**. Appellee’s

Defense Counsel has not even acknowledge, reviewed, or commented on the Exparte Request for Judicial Review, nor has addressed it in his comments upon filing his appearance which should also provide or reflect a **reasonable doubt**. Appellant also cites *Batson v Kentucky*, 476 US 79; 106 S Ct 1712; 90 L Ed 2d 69 (1986)., as a basis as to why Appellant would not have received a fair trial. The Statement of question presented to the Trial Court as well as to the Appeals court should and is:

1. Has the trial court and the appeals court taken into consideration of the abuse of discretion by the presiding judge- The Honorable George S. Butth P-11479?
2. Has the trial court and the appeals court taken a standard view of the methodology of the Prosecutor Lead and Primary Christopher Becker and Joshua Kuiper with authorizing a fabricated charge of MCL 750.520C (1) (H) while knowingly submitting it to Judge Butth?
3. Has the trial court and the appeals court considered the MALISIOUS methodology of Detective Swiercz of the Wyoming Police Department of EXHIBIT (A) of FALSIFIING the 62A Probable Cause for Felony Complaint submitted to the District Court and the Prosecutor's Office accepting this document as (true) when the Appellant denied the charges 3 times during EXHIBIT (D) – the police interview between Detective Swiercz and the Appellant?
4. Has the trial court and the appeals court taken into consideration that Detective Swiercz, Prosecution, and judge Butth all worked in cooperation and not collaboration in an effort to corroborate, KNOWINGLY, falsified information which cause SELF-INCRIMINATION curtailing the Appellant's protected rights pursuant to the Fifth Amendment of the U.S. Constitution as well as Article 17 of the Michigan Constitution?
5. Has the trial court and the appeals court taken into consideration that an attempt by the Appellant has raised a Federal question to be cetified and filed by the U.S. and the Michigan Attorney General's Office to no avail and as follows:

*Pursuant to the duties imposed upon it by virtue of 28 U.S.C. 2403(a), this Court will please certify to the Office of the Attorney General that the constitutionality of an Act of Congress affecting the public interest is herein drawn in question.*

The Federal question being, if a state agency is allowed to accept falsified information or document which causes (self-incrimination) to be used which infringes upon Article 17 of the Michigan Constitution in a criminal case as follows:

**(PRIMA FACIE)**

**EXHIBIT (A) -FALSIFIED SELF-INCRIMINATION BY DETECTIVE SWIERCSZ WITH THE AFFIDAVIT FOR PROBABLE CAUSE FOR FELONY COMPLAINT 62A Judicial District Court:**

**EXHIBIT (B) § 17 Self-incrimination; due process of law; fair treatment at investigations.**  
 Sec. 17. **No person shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property, without due process of law.** The right of all individuals, firms, corporations and voluntary associations to fair and just treatment in the course of legislative and executive investigations and hearings shall not be infringed. History: Const. 1963, Art. I, § 17, Eff. Jan. 1, 1964. Former constitution: See Const. 1908, Art. II, § 16.

Whereas, Magistrate Judge Ray Kent indicates that judges are immune from discipline even if process is in grave error, that it is acceptable in a court of law while the judge is aware or has knowledge of the error?

6. Has the trial court and the appeals court considered the “Brief for Writ of Mandamus” “Exparte Request for Judicial Review”?
7. Has the trial court or the appeals court taken into consideration the “Motion to Intervene in Challenge to the Constitutionality of Law”?
8. Has the trial court or the appeals court taken into consideration the ADOPTED OPINION, IN PART, by the Honorable Paul L. Maloney P-25194 of the Report and Recommendation by The Honorable Ray Kent P-44156?
9. Has the trial court or the appeals court taken into consideration the The Honorable Paul L. Maloney’s Adoption, in part, referring to the curtailment of the Appellant’s FREEDOM pursuant to the Fifth Amendment and of Article 17 of the Michigan Constitution AFFIRMING that:

*“the Plaintiff in the matter of Stacey Smith V. George S. Buth Case No.: 1:16-cv-1381, has stated a CLAIM over which this court has subject-matter jurisdiction.”*

Has the trial court or the appeals court considered that Federal Judge Paul L. Maloney’s opinion:

FURTHER AFFIRMS CONFIRMATION FOR SUPERINTENDING CONTROL PURSUANT

TO MCL 600.4401 (1). In conjunction to Federal Judge Paul L. Maloney’s adoption, **IN PART,**

of Federal Magistrate Judge Ray Kent’s R&R stating that: *“the Plaintiff in the matter of Stacey*

Smith V. George S. Buth Case No.: 1:16-cv-1381, has stated a CLAIM over which this court has subject-matter jurisdiction.” Your Honor, with Federal subject-matter jurisdiction, this is also a

**FEDERAL ORDER OF MANDAMUS PURSUANT TO 28 § U.S.C. 1361 STIPULATING:**

§1361. Action to compel an officer of the United States to perform his duty.

The district courts shall have original jurisdiction of (ANY) action in the nature of mandamus to compel an officer or employee of the United States or (ANY) agency thereof to perform a duty owed to the plaintiff.

(Added Pub. L. 87-748, §1(a), Oct. 5, 1962, 76 Stat. 744.) AN AFFIRMED CLAIM OF MANDAMUS.

The trial court also the appeals court has not yet considered COUNTS 1-4 OF MANDAMUS with regards to the “EXPARTE REQUEST FOR JUDICIAL REVIEW” per the Appellant’s request nor the vital contents thereof and ask that the Michigan court of Appeals AFFIRM SUPERINTENDING CONTROL for the above for mentioned.

Also, has the trial court and the appeals court considered the formula that the Appellant believes that Prosecution and Defense Counsel should have been cited for:

FORMULA:

(Prosecution) (Defense Counsel)  
MCR 6.110 (D1) + (2a) + (2b) + (2c) (E) = MCR 6.201 (b2) + (b5) = MCR 6.201 (b2) + (b5)

MCR 6.108 (A) + MCR 6.110 (A) + (C) + (D) + (D1) + (D2) = MCR 6.110 (E) + (F) + (H)

Should be equal to: MCR 6.201 (J): (VIOLATION).

*J) Violation. If a party fails to comply with this rule, the court, in its discretion, may order the party to provide the discovery or permit the inspection of materials not previously disclosed, grant a continuance, and prohibit the party from introducing in evidence the material not disclosed, or enter such other order as it deems just under the circumstances. Parties are encouraged to bring questions of noncompliance before the court at the earliest opportunity. Willful violation by counsel of an applicable discovery rule or an order issued pursuant thereto may subject counsel to appropriate sanctions by the court. An order of the court under this section is reviewable only for abuse of discretion.*

The Appellant asks that the trial court and the appeals court consider the submitted information as the Appellant attempts to official file and submit the “Motion to Modify Sentencing” in the 17<sup>TH</sup> Judicial Circuit Court as a means of remedy as stipulated by Thomas J. Dempsey P-48792, Corporate Counsel to the Appellee George S. Buth to the Honorable J. Joseph Rossi P-53941.

AQUITTAL REQUESTED IN NOLLE PROSEQUI PER CURIAM.

Thank you and best regards:

*Respectfully submitted,*



---

MR. STACEY R. SMITH.  
APPELLANT.  
855 KALAMAZOO AVE SE  
GRAND RAPIDS, MICHIGAN 49507.  
616-350-5709.  
03-01-2017.



Stacey K. Smith  
855 Kalamazoo Ave SE  
Grand Rapids, MI 49507

17-1022

Sixth Circuit Court of Appeals  
Potter Stewart U.S. Courthouse  
100 East Fifth Street  
Cincinnati, Ohio  
45202



**RECEIVED** United States of America.  
 Sixth Circuit Court of Appeals.  
 MAR 10 2017 Potter Stewart U.S. Courthouse.  
 100 East Fifth Street.  
 DEBORAH S. HUNT, Clerk Cincinnati, Ohio 45202.  
 513-564-7000.

IN RE SMITH  
 APPELLANT,

COA CASE NO.: 336537  
 U.S. DISTRICT: 1:16-cv-1381  
 CCA CASE NO.: 17-1022  
 DOJ REFERENCE: 3749088  
 JTC REFERENCE: 16-22385  
 AGC REFERENCE: 16-1551

LOWER COURT: 14-11012-FH

STACEY R. SMITH

33\*

APPELLANT  
 PRO SE, IN PRO PER

MCL 750.520E

DATED: 10/10/2014. (ADDENDUM).

V.

} **MOTION TO SUPPRESS POLICE STATEMENT.**

FROM THE WYOMING POLICE DEPARTMENT.

**MOTION TO SUPPRESS AFFIDAVIT FOR  
 PROBABLE CAUSE FOR FELONY COMPLAINT.**

*MOTION FOR RELIEF FROM SENTENCING MCR 6.502.*

GEORGE S. BUTH P-11479.

*MOTION FOR RESPONSE BY PROSECUTOR MCR 6.506.*

APPELLEE,

**THROUGH THE MOTION TO MODIFY SENTENCING,**

APPELLEE'S DEFENSE COUNSEL:

THOMAS J. DEMPSEY P-48792.

KENT COUNTY CORPORATE COUNSEL.

17<sup>TH</sup> CIRCUIT COURT AND THE HON. GEORGE S. BUTH.

300 MONROE AVE NW

GRAND RAPIDS, MICHIGAN 49503-2206.

***Nolle Prosequi***

MCR 6.419 (A)

MCR 7.211 (7) & (9)

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ENTERING THE PLAINTIFF, IN RE, with a Motion to Suppress the Police Statement from the Wyoming Police Department dated 10/10/2014 and **the Affidavit for Probable Cause for Felony Complaint**. The nature of the MOTION TO SUPPRESS the Police Statement from the Wyoming Police Department and **the Affidavit for Probable Cause for Felony Complaint** is based on the supported fact that Detective Swiercz used the police report in an effort of **self-incrimination** to the Appellant and curtailing his freedom violating the Fifth Amendment and Article 17 of the Michigan Constitution. Detective Swiercz attempted to create the illusion that I was not under arrest MCA EXHIBIT (1) of this Motion and purposely **CONCEALED MY RIGHTS** and not making them known during the police interview, EXHIBIT (D), under the Fifth Amendment and Article 17 of the Michigan Constitution, **IN A DECEPTIVE PRACTICE** to unlawfully extract information to **COERCE AND ENTRAP** the Appellant into a **SELF-INCRIMINATING STATEMENT**, to which he in turn **FALSIFIED** the **62A Affidavit for Probable Cause for Felony Complaint** by stating that I admitted to the charges when I did not. The Appellant was convicted on 07/22/2015 WHEREAS the Appellee was also aware of this further allowing my protected right to be infringed upon in cooperation with Detective Swiercz and Prosecution with **MALICE**. Pursuant to the Appellant's **LETTER OF INTENT**, of a **MOTION TO MODIFY SENTENCING** with regards to MCR 6.502 (A), The Appellant humbly asks the Appeals Court to consider **A MOTION TO SEAL COURT RECORD** MCA Case No.:

336537 and the Lower Court Case No.: 14-11012-FH and **AFFIRM** under these grounds pursuant to MCR 7.211 (9). Also under the grounds of the Federal Opinion of Paul L. Maloney's adoption, **IN PART**, of Federal Magistrate Judge Ray Kent's Report and Recommendation of the Appellant having *subject-matter jurisdiction* for the following:

Self-Incrimination>

The Fifth Amendment protects criminal defendants from having to testify if they may incriminate themselves through the testimony. A witness may "plead the Fifth" and not answer if the witness believes answering the question may be self-incriminatory.

In the landmark *Miranda v. Arizona* ruling, the United States Supreme Court extended the Fifth Amendment protections to encompass any situation outside of the courtroom that involves the curtailment of personal freedom. 384 U.S. 436 (1966). Therefore, any time that law enforcement takes a suspect into custody, (law enforcement must make the suspect aware of all rights).

**Known as *Miranda* rights, these rights include the right to remain silent, the right to have an attorney present during questioning, and the right to have a government-appointed attorney if the suspect cannot afford one.** (Denied court appointed counsel proving indigence.)

If law enforcement fails to honor these safeguards, courts will often suppress any statements by the suspect as violative of the Fifth Amendment's protection against self-incrimination, provided that the suspect has not actually waived the rights. **An actual waiver occurs when a suspect has made the waiver knowingly, intelligently, and voluntarily.**

To determine if a knowing, intelligent and voluntary waiver has occurred, a court will examine the totality of the circumstances, which considers all pertinent circumstances and events. If a suspect makes a spontaneous statement while in custody prior to being made aware of the *Miranda* rights, law enforcement can use the statement against the suspect, (provided that police interrogation did not prompt the statement). **MY MIRANDA RIGHTS WERE NEVER GIVEN TO ME.**

**EXHIBIT (D).**

**Detective Swiercz crossing out the top of the police statement, MCA EXHIBIT (1)**

The judge did not take the inconsistencies into consideration when I stated, "after reviewing the case on 11/14/2016, that there was information in the file that I discovered was false and not accurate when I read the Affidavit of Probable Cause for Felony Complaint from 62A District Court from a one Detective Phillip Swiercz from the Wyoming Police Department, that I admitted to the elements that he stipulated in the affidavit". **THIS IS NOT TRUE AND DETECTIVE SWIERCZ FALSIFIED THIS DOCUMENT TO PROMPT THE ARREST AND COVICTION THAT I AM CURRENTLY UNDER.** Judge Buth over looked the details of the inconsistencies on the dates on the 62A complaint and the police report were Detective Swiercz stated that the occurrence happened on 04/01/2014 on the police report, then put the occurrence date of 06/01/2014 on the 62A Felony Complaint and also stipulated that on 06/01/2014 that I was there at 6pm when I never worked a shift past 5pm. **My start date at the David's house was on 06/13/14. Detective Swiercz alleges the offense occurred (before I ever stepped foot on the property). Please refer to enclosed work schedule.** **EXHIBIT (F).**

Gross Misconduct by George S. Buth.

With regard to the expungement process, this may not be available as well as Appellee's Defense Counsel could be alleging. If you will notice that, as of January 12, 2015, Applications to Set Aside Judgments may also **NOT BE AVAILABLE, MCA EXHIBIT (5)** in accordance to the MEMORANDUM from the **Michigan Supreme Court** dated February 05, 2015 for Amendments to set Aside Convictions, as it has updated my ability to Set Aside my Conviction, **AS AN AVAILABLE REMEDY**, as well which should qualify this Motion to be **AFFIRMED in, Nolle Prosequi** with regards to the Motion to Modify Sentencing pursuant to MCR 6.419 (A), or MCR 6.502, MCR 6.506 with regards to MCR 7.211 (7) & (9) Nolle Prosequi. EXHIBITS MCA (2) and (3) should be considered as the date that the charge was initiated being 10/30/2014 and/or 11/03/2014; however, the court may find or rule that the dates are not within the Memorandum by the Michigan Supreme Court which would indicate that the conviction date of Case No.: 14-11012-FH may **fall outside** the date of 01/12/2015, therefore **the only relative way for REMEDY, would be a Motion to Modify Sentencing Nolle Prosequi.**

WHEREFORE, the Appellant asks this Honorable Court to consider form number SCAO mc 263 a Motion/Order of Nolle Prosequi, mc 443 a Motion to Destroy DNA Profile and Sample, Motion for Relief of Judgment, and mc 235 Motion for Destruction of Fingerprints and Arrest Card along with the condition of the Motion to Modify Sentencing.

With regards to the **Affidavit for Probable Cause for Felony Complaint**, The Appellant has grounds to SUPPRESS the affidavit under the established **PROOF** that Detective Swiercz of the Wyoming Police Department **LIED ON THE AFFIDAVIT IN COMPARISON TO EXHIBIT**



(D), where the Appellant denied the allegations 3 times. Detective Swiercz also coerced the Appellant 3 times during the police interview and with the suppression of the Affidavit for Probable Cause for Felony Complaint under this justification, and the suppression of the Police Statement where Detective Swiercz CROSSED OUT THE TOP of the "ADVISE OF RIGHTS" further proves and establishes his malicious intent to not only deceive the Appellant, but also to **UNLAWFULLY CURTAIL THE APPELLANT'S PROTECTED RIGHTS UNDER THE FIFTH AMENDMENT AND ARTICLE 17 OF THE MICHIGAN CONSTITUTION:**  
(WRIT OF MANDAMUS)

**I denied the charges 3 times on minutes 19:45, 41:35, and 1:01:10 and coercion was used by Detective Swiercz on minutes 33:48, 37:57, and 1:04:40.**

WHEREAS:

28 U.S.C. § 2254 (d) (2) stipulates that:

(d)- An application for Writ of Habeas Corpus on behalf of a person in custody, (M.D.O.C.: 961806), pursuant to the judgment of the state court shall be granted with respect to any claim that was adjudicated on the merits in the state court proceedings unless the adjudication of the claim-(2): resulted in a decision that was based on, **EXHIBITS (A) (C) (D) (E) & (F), an unreasonable determination of facts** in light of the evidence presented, (or lack thereof), in the state court proceeding.

**EXHIBIT (A) (C) (D) & (F) - after reviewing the case on 11/14/2016, that there was information in the file that I discovered was false and not accurate when I read the Affidavit of Probable Cause For Felony Complaints from the 62A District court from a one Detective Swiercz from the Wyoming Police Department stating that I admitted to the elements that he stipulated in the affidavit. THIS IS NOT TRUE AND HE FALSIFIED THIS DOCUMENT TO PROMPT THE ARREST AND CONVICTION THAT I AM CURRENTLY UNDER. After discovery of this document to which I never seen or had knowledge of before or during the case or hearing, it clearly reveals to me that Mr. Joshua Kuiper along with especially Detective Swiercz set out on a campaign to entrap me and destroy my life with malice.**

**EXHIBIT (C) & (E) -In regards to the Felony Complaint, IF YOU WERE TO NOTICE THAT THE DATE OF OCCURENCE DET SWIERCZ PUT ON THE COMPLAINT**



WAS 04/01/14 AND THEN HE DATED IT FOR 06/01/14. BE ADVISE YOUR HONOR, I DID NOT START THE DAVID'S HOUSE UNTIL 06/13/14 WHICH WAS MY ORIENTATION DATE. THIS IS INCONSISTENT. HE ALSO STATED THAT I WAS THERE ON 06/01/14 AT 18:01 OR 6PM. I NEVER WORKED A SHIFT PASSED 5PM. THIS IS ALSO INCONSISTENT AND MY DEFENSE COUNSEL WAS AWARE AND JUST BRUSHED IT ASIDE WITH OUT CHALLENGING IT. My start date at the David's house was on 06/13/14. Detective Swiercz alleges the offense occurred (before I ever stepped foot on the property). Please refer to enclosed work schedule. EXHIBIT (F).

Gross Misconduct by George S. Buth.

**(PLEASE REFER TO WORK SCHEDULE ENCLOSED.)** EXHIBIT (F).

28 U.S.C. § 2254 (e) (1): In the proceeding instituted by an application for Writ of Habeus Corpus by a person in custody pursuant to the judgment of the state court, a determination of a factual issue made by a state court shall be presumed to be correct. The applicant shall have the burden of rebutting the presumption of correctness by clear and convincing evidence. EXHIBIT (B) PRIMA FACIE.

28 U.S.C. § 2254 (e) (2) (A): The claim relies on- (ii) > a factual predicate that could not have been previously discovered, EXHIBIT (A), through the exercise of due diligence; and (B) the facts underlying the claim would be sufficient to establish by clear and convincing evidence that but for constitutional error, no reasonable factfinder would have found the applicant guilty of the underlying offense.

Your Honor, with the suppression of the Police Statement and the Affidavit for Probable Cause for Felony Complaint and justified, the only thing that would be left would be my testimony on the police video of me denying the charges 3 times and identifying Detective Swiercz's coercion 3 times.

With this ADDENDUM, your Honor, The Appellant AFFIRMS HIS RELIEF.

*Respectfully submitted,*



---

MR. STACEY R. SMITH.  
APPELLANT.  
855 KALAMAZOO AVE SE  
GRAND RAPIDS, MICHIGAN 49507.  
616-350-5709.

**PROOF OF SERVICE.**

**To the above mention and to the:**

**Honorable: George S. Buth P-11479.**

**And,**

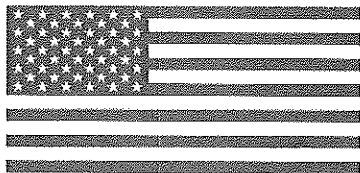
**Appellee's Defense Counsel.  
The County of Kent.  
Corporate Counsel to the Defendant.  
MCA Case No.: 336537.  
In the Michigan Court of Appeals.  
Thomas J. Dempsey P-48792.  
Kent County Corporate Counsel.  
300 Monroe Ave NW  
Grand Rapids, Michigan 49503.  
616-632-7573.**

**PROOF OF SERVICE.**

**I certify under the penalty of perjury of the United States of America and State of Michigan, that I mailed a true copy of this document to the addresses above on this 6th day of march 2017 A.D. by US first class mail.**



**SIGNATURE OF MR. STACEY R. SMITH ONLY.**



RECEIVED

MAR 10 2017

DEBORAH S. HUNT, Clerk



State of Michigan.

In the Michigan Court of Appeals.

350 Ottawa Ave NW

Grand Rapids, Michigan 49503.

Mr. Stacey R. Smith  
855 Kalamazoo Ave SE  
Grand Rapids, Michigan 49507.  
616-350-5709.

CASE NO.: 336537.

LOWER COURT CASE NO: 14-11012-FH.

APPELLEE'S DEFENSE COUNSEL:  
THOMAS J. DEMPSEY P-48792.  
KENT COUNTY CORPORATE COUNSEL.  
17<sup>TH</sup> CIRCUIT COURT AND THE HON. GEORGE S. BUTH.  
300 MONROE AVE NW  
GRAND RAPIDS, MICHIGAN 49503-2206.

02/24/2017.

REFERENCE: CITED COURT LAW CORRECTION IN APPELLANT'S PLEADING.

Dear Honorable Court of the Michigan Court of Appeals and Appellee's Defense Counsel. Please be advised of the attempt to correct the citing in the Appellant's recent submission of my "MCA Rebuttal and Counter-Argument" which had been sent on 02/23/2017. In the Brief, I attempted to cite the Michigan Compiled Law of MCL 600.4401 whereas I cited it as a Michigan Court Rule in error. Note carefully distinguishing between the two, I confused myself in citing what is a law as a court rule. If the Honorable Court could recognize this correction and apply it properly as MCL 600.4401 (1) as I cited it mistakably as MCR 600.4401 in error. If the court as well as Appellee's Defense Counsel could recognize and caption in the Appellant's Brief in regards to the errored citing of (MCR 600.4401) as (MCL 600.4401) as reference to the Michigan Compiled Laws of the State of Michigan instead of the Michigan Court Rules.

Also, enclosed you should find my response from the Michigan Attorney Grievance Commission dated February 17, 2017 from a one Ms. Ruthann Stevens, Senior Associate Counsel of the Michigan Attorney Grievance Commission who was assigned to my complaint with regards to Joshua Kuiper P-66576 AGC File No.: 17-0456, Kevin Bramble P-38380 AGC File No.: 17-0453, Chris Becker P-53752 AGC File No.: 17-0454, and John R. Beason P-34095 AGC File No.: 17-0455. The original case number file with the commission stems from AGC 16-1551. With regards to this, the commission has responded informing me that the complaints that I have submitted are not actionable by the commission and has decided to close the complaint under the authority of the Grievance Administrator pursuant to MCR 9.112 (C) (1) (a). Ms. Stevens also has indicated that though I remain unsatisfied with the outcome of my case, that claims of prosecutorial misconduct are best resolved through the court system and that herself and the commission recommends that I pursue **appellate** remedies. The Appellant feels that the Appellant Court should consider the following:

Pursuant to MCR 7.211 (A) (3) – A motion to affirm Appellant's Brief.

MCR 7.211 (3) (C) – Trial Court abused its discretion.

MCR 7.211 (4) – A Motion for immediate consideration.

MCR 7.211 (C) (3) (a) – Motion to affirm Appellant's Brief because of abuse of discretion.

MCR 7.211 (C) (a) – A confession of error by the prosecutor be assumed.

MCR 7.211 (C) (a) – A motion to seal appellant case no: 336537 and lower court case no: 14-11012-FH in WHOLE.

And a Motion to Exonerate the Appellant.

With affirmation of the Motion to Modify Sentencing with the signature of the Kent County Prosecutor Lead Prosecutor Christopher R. Becker P-53752 and the lower court judge Hon: J. Joseph Rossi P-53941 of the 17<sup>TH</sup> Circuit Court.

The Appellant prays for relief as he awaits the Appellant Courts decision.

Thank you and best regards:

Respectfully submitted,



---

MR. STACEY R. SMITH.  
APPELLANT.  
855 KALAMAZOO AVE SE  
GRAND RAPIDS, MICHIGAN 49507.  
616-350-5709.



**RECEIVED**

**MAR 10 2017**

**DEBORAH S. HUNT, Clerk**

**IN THE UNITED STATES OF AMERICA.  
SIXTH CIRCUIT COURT OF APPEALS.  
POTTER STEWART U.S. COURTHOUSE.  
100 EAST FIFTH STREET.  
CINCINNATI, OHIO 45202.**

**LOWER COURT CASE NO.: 1411012-FH  
BEFORE THE HONORABLE: JUDGE BUTH.  
MCL 750.520E**

**AT A SESSION IN THE 17<sup>TH</sup> JUDICIAL CIRCUIT COURT**

**FINAL DRAFT: DISREGARD ALL OTHER CORRESPONDENCE WITHOUT THIS MARK.**

**PEOPLE OF THE UNITED STATES AND THE STATE OF MICHIGAN:**

**MR. STACEY R. SMITH  
855 KALAMAZOO AVE SE  
GRAND RAPIDS, MICHIGAN 49507.  
616-350-5709.**

**(PETITIONER PRO SE INFORMA PAUPERIS). CCA CASE NO.: 17-1022.**

**RE-ADDRESSED (REVISED).  
CASE NO.: 1:16-cv-01381.  
HON.: PAUL L. MALONEY.  
REFERRED TO: HON. RAY KENT.**

**PLAINTIFF,**

**VS.**

**} SUPPLEMENTAL BRIEF IN SUPPORT  
OF COUNTER-COMPLAINT.**

**COMPLAINT FOR JUDICIAL MISCONDUCT OR DISABILITY.**

**GEORGE S. BUTH P-11479 (PRESIDING JUDGE).  
180 OTTAWA AVE NW  
SUITE NO.: 12200A.  
GRAND RAPIDS, MICHIGAN 49503.  
616-632-5020.  
(RESPONDENT).**

**DEFENDANT,**

**RESUBMITTED AND REVISED 03/07/2017.**

---

NOW ENTERS THE PLAINTIFF, to respectfully submit or file a supplemental brief in support of counter-complaint in an effort to provide the necessary information to which I feel should be taken into dire consideration while in discovery of certain information that should prove the intent of coercion and entrapment by practically all the individuals who were involved in this case.

I AM ALSO ATTEMPTING TO CONTACT MICHIGAN STATE TROOPER ANTHONY MAE WHO MAY POSSIBLY POSE AS A WITNESS IN PROVIDING AND IMPACT CHARACTER STATEMENT IN REGARDS TO MY CHARACTER AS HE KNOWS ME PERSONALLY.

1. Detective Swiercz knew I resided in a school safety zone which motivated him to pursue this matter.

2. The detective completely ignored my side of the story, nor was it taken into consideration. I was the one, for example, that insisted on speaking with the victim's mother before I was to go out with the victim at the victims request. Detective Swiercz stated that the victim suggested this. This is false. In the video interview I stated that I insisted that someone get involved before we go out. THIS ALONE SHOULD HAVE CAST DOUBT.

3. In regards to the Felony Complaint, IF YOU WERE TO NOTICE THAT THE DATE OF OCCURENCE DET SWIERCZ PUT ON THE COMPLAINT WAS 04/01/14 AND THEN HE DATED IT FOR 06/01/14. BE ADVISE YOUR HONOR, I DID NOT START THE DAVID'S HOUSE UNTIL 06/13/14 WHICH WAS MY ORIENTATION DATE. THIS IS INCONSISTENT. HE ALSO STATED THAT I WAS THERE ON 06/01/14 AT 18:01 OR 6PM. I NEVER WORKED A SHIFT PASSED 5PM. THIS IS ALSO INCONSISTENT AND MY DEFENSE COUNSEL WAS AWARE AND JUST BRUSHED IT ASIDE WITH OUT CHALLENGING IT. (PLEASE REFER TO WORK SCHEDULE ENCLOSED.)

4. THE VICTIM ALSO WORE A DIAPER AT ALL TIMES ALONG WITH THE CATHETER WHICH MAKES IT IMPOSSIBLE FOR ME TO COMMIT SAID OFFENSE. (AND THE VICTIM HAD A BELT ON AT THE TIME AS WELL).

5. Detective Swiercz also lied when he indicated that he was not aware of my current working status. Not only was I employed at Health Care Associates, I was also employed at Home Depot in Grandville, Michigan were he called me on my cell phone to inform me that I was under arrest and that if I did not turn myself in, that he would come out there and arrest me on the sales floor.

6. By the detective lying about this, SHOULD ALSO CAST DOUBT.

7. Collectively, this all should display coercion and entrapment and should be recognized as a gross violation of DUE PROCESS:

(A.) By being denied proper counsel and being denied court appointed counsel.

(B.) Defense counsel stating, "You know you will have to register as a sex offender", which clearly displays his intent to go along with prosecution. This was before the case even began.

(C.) In the minutes of the police interview, I denied the occurrence 3 times. And would like to list the minutes in detail for direct reference as I have enclosed the video for review.

**ITEMIZATION OF DETAILS IN POLICE INTERVIEW:**

**MINUTES:**

**19:45 – DENIED ALLEGATIONS.**

**20:58 - DETECTIVE AFFIRMING VICTIM'S COGNITION.**

**22:50 – POLICY (NO).**

**25:10 – CATHETER.**

**25:45 – COGNITION.**

**25:35 – DETECTIVE STATES HE WILL BE RIGHT BACK AND RETURNS WITH BLANK DVD IN AN EFFORT TO COMPOUND COERCION AND ENTRAPMENT.**

**33:20 – DVD PLACED ON DESK.**

**33:48 – ACT OF COERCION AND ENTRAPMENT.**

**35:54 – VICTIM STATES HE WAS NOT APPAULED BY THIS WHICH INFERES THAT SOMEONE ELSE WAS IMPLYING THAT THE ALLEGED ACT WAS UNWANTED.  
(VICTIMS BROTHER KYLE).**

**39:09 – HE IMPLIED TOUCHING.**

**41:35 – SECOND DENIAL TO ALLEGED CHARGES.**

**41:58 – I IMPLIED CHEEK TO CHEEK.**

**42:50 – I STATE THAT THE VICTIM WAS THE PERSISTANT INITIANT.**

**43:46 – THE SAME AS MINUTE 42:50 VICTIM WAS PERSISTANT INITIANT.**

**45:53 – I DID NOT BRING THIS UP.**

**EXHIBIT (N) 49:50 – I IDENTIFIED THE INCIDENT AS A FRIENDSHIP NOT RELATIONSHIP. THE DETECTIVE AND PROSECUTOR USED THIS TO MISCONSTRUE THIS TO MAKE IT APPEAR AS A RELATIONSHIP TO FALL UNDER MCL 750.520 C (1) (H).**

**48:45 – DETECTIVE SWIERCZ USING MISLEADING STATEMENTS IN AN EFFORT TO COERCE AND ENTRAP.**

**50:35 – CHECKING CATHETER.**

**52:03 – THE DETECTIVE STATING THAT THERE WAS A NANNY CAM WHICH PROMPTED THE DISCOVERY MOTION BY DEFENSE COUNSEL AND WAS NOT PRODUCED BY PROSECUTION.**

**53:33 – DETECTIVE NOT BEING TRUTHFUL BY GIVING ME THE IMPRESSION THAT PROSECUTION WOULD DECIDE THE CHARGES AS HE WAS THE ONE I DISCOVERED FILING THE FELONY PROBABLE CAUSE COMPLAINT WHICH TRIGGERED ARREST AND CONVICTION. (ENTRAPMENT).**

**1:01:10 – 3<sup>RD</sup> DENIAL OF ALLEGED CHARGES.**

**1:04:40 – MISCONSTRUED COERCION.**

In summary, your Honor, I denied the charges 3 times on minutes 19:45, 41:35, and 1:01:10 and coercion was used by Detective Swiercz on minutes 33:48, 37:57, and 1:04:40.

Also your Honor, while the case was in progress, I witness Detective Swiercz at my job at Uhaul lurking around and I called my defense counsel to see why he was there and never found out why, I had Prosecutor Kevin Bramble P-38380, come through my lane at Sam's Club with a smirk on his face. I said nothing and rang up his items to get him out of the lane, and also Judge Buth P-11479 who also paid a visit at Sam's Club at a different time as Kevin Bramble. These are some of the things I had to endure all through and after the proceedings.

I seek complete and total relief you Honor if it so convinces this Honorable Court.

Thank you and best regards: AQUITTAL REQUESTED IN NOLLE PROSEQUI PER CURIAM.

/s/ Mr. Stacey R. Smith

*Respectfully submitted,*



---

MR. STACEY R. SMITH.  
APPELLANT.  
855 KALAMAZOO AVE SE  
GRAND RAPIDS, MICHIGAN 49507.  
616-350-5709.

**PROOF OF SERVICE.**

To the above mention and to the:

Honorable: George S. Buth P-11479.

And,

Appellee's Defense Counsel.  
The County of Kent.  
Corporate Counsel to the Defendant.  
MCA Case No.: 336537.  
In the Michigan Court of Appeals.  
Thomas J. Dempsey P-48792.  
Kent County Corporate Counsel.  
300 Monroe Ave NW  
Grand Rapids, Michigan 49503.  
616-632-7573.

**PROOF OF SERVICE.**

I certify under the penalty of perjury of the State of Michigan, that I mailed a true copy of this document to the addresses above on this 7th day of march 2017 A.D. by US first class mail.



\_\_\_\_\_  
SIGNATURE OF MR. STACEY R. SMITH ONLY.



**RECEIVED**

MAR 10 2017

DEBORAH S. HUNT, Clerk

IN THE UNITED STATES OF AMERICA.  
SIXTH CIRCUIT COURT OF APPEALS.  
POTTER STEWART U.S. COURTHOUSE.  
100 EAST FIFTH STREET.  
CINCINNATI, OHIO 45202.

LOWER COURT CASE NO.: 1411012-FH  
BEFORE THE HONORABLE: JUDGE BUTH.  
MCL 750.520E  
AT A SESSION IN THE 17<sup>TH</sup> JUDICIAL CIRCUIT COURT

FINAL DRAFT: DISREGARD ALL OTHER CORRESPONDENCE WITHOUT THIS MARK.

PEOPLE OF THE UNITED STATES AND THE STATE OF MICHIGAN:

MR. STACEY R. SMITH  
855 KALAMAZOO AVE SE  
GRAND RAPIDS, MICHIGAN 49507.  
616-350-5709.

(PETITIONER PRO SE INFORMA PAUPERIS).

RE-ADDRESSED (REVISED).  
CASE NO.: 1:16-cv-01381.  
HON.: PAUL L. MALONEY.  
REFERRED TO: HON. RAY KENT.

CCA:17-1022 IN RE STACEY SMITH.

PLAINTIFF,

MICHWORKS  
121 Franklin Ave Grand Rapids, MI 49507.

VS.

}

MOTION FOR CLARITY AND  
AUTHORIZATION TO UTILIZE  
COMPUTER FACILITIES AT  
MICHWORKS ON FRANKLIN ST.  
TO SEEK EMPLOYMENT.  
AND AFFIRMATION AND DEFENSE.

COMPLAINT FOR JUDICIAL MISCONDUCT OR DISABILITY.

GEORGE S. BUTH P-11479 (PRESIDING JUDGE).  
180 OTTAWA AVE NW  
SUITE NO.: 12200A.  
GRAND RAPIDS, MICHIGAN 49503.  
616-632-5020.  
(RESPONDENT).

DEFENDANT,

RESUBMITTED AND REVISED 03/07/2017.

/

NOW ENTERS THE PLAINTIFF, with a motion for clarity and a request to seek employment at the computer facility at the Michworks facility on Franklin Ave to seek employment. The reason I have extended and attempted to reach out to the federal courts, is because of the added confusion which has been brought on by the decision handed down by Federal Judge Robert Cleland on the east side of this state. After my exhausting attempt to remain in compliance, I am in discovery of things which I cannot understand and am not able to comply with in regards to the conditions that I must follow. After inquiring about whether or not I am able to seek employment at the Michworks facility from my probation officer, a one Mr. Steven Meyers, I was given permission NOT WRITTEN AUTHORIZATION to seek employment however I also reviewed the stipulations of my probation and discovered that:

1. My conditions state that I may (NOT) utilize the internet both DIRECTLY OR INDIRECTLY and by permission of the probation officer would be INDIRECTLY, and would be a violation and to prove as such, to be given permission and not WRITTEN AUTHORIZATION would remain in line with me violating the conditions of my probation.
2. To justify this for example. Not that my probation officer would, but if he were to at any time deny PERMISSION to utilize the facility and I do not possess written proof, the probation officer could then violate me and I would have no way of proving the PERMISSION NOT AUTHORIZATION.
3. I inquired with my own defense counsel and Mr. John R. Beason stated that there was nothing else that he could do which compels me and justifies me to request clarity through this motion on a federal level as well as a state level.
4. I am also in receipt, after reviewing the case on 11/14/2016, that there was information in the file that I discovered was false and not accurate when I read the Affidavit of Probable Cause For Felony Complaints from the 62A District court from a one Detective Swiercz from the Wyoming Police Department stating that I admitted to the elements that he stipulated in the affidavit. THIS IS NOT TRUE AND HE FALSIFIED THIS DOCUMENT TO PROMPT THE ARREST AND CONVICTION THAT I AM CURRENTLY UNDER. I stated to my defense counsel and he maintains that there is nothing that he can do.
5. The detective stated on the affidavit that I admitted to engaging in the act of sexual contact with a mentally disable person being in a position of authority:
6. My affirmation and Defense response to this is DENIED. I never had a chance or opportunity to defend myself as my own defense counsel went along with prosecution and never challenge the prosecutor AT ALL.
7. Where the detective stated that I admitted to kissing said victim in question and admitted to a word that is not even legible on the affidavit but may infer touching the victims penis:
8. My affirmation and defense response to this is DENIED.
9. After discovery of this document to which I never seen or had knowledge of before or during the case or hearing, it clearly reveals to me that Mr. Joshua Kuiper along with

especially Detective Swiercz set out on a campaign to entrap me and destroy my life with malice. Detective Swiercz deceived me or used a deceptive practice in an effort to find anything that he could use to convict me. Detective Swiercz crossed out the top of the statement document from W.P.D. Creating the illusion that I was not under arrest were he deliberately used a deceptive practice to coerce me into a false self-incriminating statement that he then immediately constructed said felony probable cause complaint for my arrest. He also implied that there was a video caption from a nanny cam but was not produced in defense counsels Discovery Motion.

I continue to maintain, THAT I DID NOT ADMIT TO THE CHARGES AS HE STATED IN THE COMPLAINT. DET. SWIERCZ FALSIFIED THIS DOCUMENT. I DID NOT ADMIT TO THE CHARGES DURING THE PLEA. WHEN THE JUDGE ASKED ME IF I WAS GUILTY OF THE EXACT SAID CHARGE AND I PAUSED, LOOKED AT MY DEFENSE COUNSEL AND MR. BEASON MODIFIED THE QUESTION TO WHERE THE JUDGE THEN ASK IN A DIFFERENT MANNER WHICH DID NOT PERTAIN TO THE EXACT CHARGE, AND THEN PUSHED THE CASE THROUGH. THIS ALL SEEMED SET UP EVEN WITH THE JUDGE IN COOPERATION.

Through all of this I would like to request an investigation for prosecutorial and judicial misconduct.

-I ALSO CHALLENGE OF ALL THE WITNESSES THAT DETECTIVE SWIERCZ COMILED TOGETHER TESTIFY THAT ANY OF THE WITNESSES (ACTUALLY WITNESSED ME COMMIT SAID OFFENSES IN QUESTION?)

-VICTIM INDICATED IN THE STATEMENT TAKEN BY DETETIVE SWIERCZ STATING, "THAT HE WAS NOT HURT FROM SAID INCIDENT."

-ALSO THE OTHER CLARITY TO WHICH I SEEK IS THE UNDERSTANDING WHY I AM PROHIBITED FROM USING THE INTERNET WHEN MY CHARGE HAD NOTHING TO DO WITH THE INTERNET?

-ALSO MY CHARGE DID NOT INVOLVE CHILDREN THOUGH I WAS SUBJECTED TO THE SCHOOL SAFETY ZONE RESTRICTION AND CAUSING ME TO LOSE MY HOME?

-I HAVE CONGREGATED AROUND OTHER INDIVIDUALS UNDER S.O.R.A. , (ALL WHITE) INDIVIDUALS AND I AM IN RECEIPT OF INFORMATION THAT THEY ARE NOT UNDER THESE REQUIREMENTS WITH THE KNOWLEDGE THAT THEIR OFFENSE DID INVOLVE CHILDREN, YET THEY HAVE ADMITTED TO GOING TO PARKS, USING THE INTERNET, SMARTPHONES, ALL THE WAY UP TO CARRYING A FIRE ARM TO WORK? WHY ARE THESE INDIVIDUALS ALLOWED TO SUPERCEDE S.O.R.A?

After all of this, I am now faced with the struggle of finding a job with no real way to seek employment when every employer requires the internet. I lost my home because of the school safety zone and after consulting with a post-conviction attorney, Nancy Ballast, she only recommended a letter to the City Attorney to ask if he/she would be willing to provide a letter not enforcing the school safety zone, to which I am aware would not have worked even if the City

Attorney provided the letter. These are some examples of the difficulties that The MSP Director and State Senators have created for individuals now confined to S.O.R.A.

I respectfully submit this request to please further advise with order enclosed.

Respectfully submitted: AQUITTAL REQUESTED IN NOLLE PROSEQUI PER CURIAM.

/s/ Mr. Stacey R. Smith.

Post Script: EXHIBITS (Q) and (R), I was even denied court appointed counsel when I proved my indigence.

*Respectfully submitted,*



---

MR. STACEY R. SMITH.  
APPELLANT.  
855 KALAMAZOO AVE SE  
GRAND RAPIDS, MICHIGAN 49507.  
616-350-5709.

**PROOF OF SERVICE.**

To the above mention and to the:

Honorable: George S. Buth P-11479.

And,

Appellee's Defense Counsel.  
The County of Kent.  
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In the Michigan Court of Appeals.  
Thomas J. Dempsey P-48792.  
Kent County Corporate Counsel.  
300 Monroe Ave NW  
Grand Rapids, Michigan 49503.  
616-632-7573.

**PROOF OF SERVICE.**

I certify under the penalty of perjury of the State of Michigan, that I mailed a true copy of this document to the addresses above on this 7th day of march 2017 A.D. by US first class mail.

  
SIGNATURE OF MR. STACEY R. SMITH ONLY.